

PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A
TIGARD CITY COUNCIL MEETING
FEBRUARY 22, 2005 – 6:30 PM

6:30 PM

- STUDY SESSION
 - > CITY COUNCIL ORIENTATION
 - City Attorney
 - > UPDATE ON COMMUTER RAIL URBAN RENEWAL FEASIBILITY STUDY (Schedule and status of Downtown)
 - Community Development Director
- EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

1. BUSINESS MEETING
 - 1.1 Call to Order - City Council & Local Contract Review Board
 - 1.2 Roll Call
 - 1.3 Pledge of Allegiance
 - 1.4 Council Communications & Liaison Reports
 - 1.5 Call to Council and Staff for Non-Agenda Items
2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)
 - Follow-up to Previous Citizen Communication

3. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:
 - 3.1 Approve Council Minutes for January 18, and 24, 2005
 - 3.2 Approve Budget Amendment No. 9 to the Fiscal Year 2004-05 Budget to Increase Appropriations in the Library Department for Additional Hours of Operation to Re-Open the Library on Sundays – Resolution No. 05-____
 - 3.3 Local Contract Review Board:
 - a. Award Contract for the Construction of North Dakota Street Pedestrian Crosswalk
 - b. Approve Amendment to Engineering Services Contract for Murray Smith & Associates, Inc., for Design of a 550-Foot Zone Reservoir No. 2
 - *Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.*
4. RECOGNIZE OUTSTANDING CITIZEN ASSISTANCE
 - Staff Report: Chief of Police
5. CONSIDER INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF TIGARD AND TRIMET FOR THE ASSIGNMENT OF A FULL-TIME POLICE OFFICER TO THE TRANSIT POLICE DIVISION
 - a. Staff Report: Chief of Police
 - b. Council Consideration: Motion approving the IGA and authorize the Interim City Manager to Sign
6. CONSIDER BUDGET AMENDMENT NO. 8 TO THE FISCAL YEAR 2004-05 BUDGET TO ADD A FULL-TIME POLICE OFFICER POSITION AND INCREASE APPROPRIATIONS FOR FUNDING OF THIS POSITION
 - a. Staff Report: Police Department Staff
 - b. Council Consideration: Resolution No. 05-____

7. DISCUSS A PROPOSED RESOLUTION TO SUPPORT COLLABORATION WITH WASHINGTON COUNTY JURISDICTIONS REGARDING PROPOSED CHANGES TO GOAL 14 (URBANIZATION) AND THE URBAN GROWTH BOUNDARY ADMINISTRATIVE RULES, AND TO SUPPORT LOCAL CONTROL OVER THE LAND-USE PROCESS
 - a. Staff Report: Community Development Director Hendryx
 - b. Council Discussion
 - c. Council Direction: Direct staff to make revisions to the draft resolution and submit to the Council for its consideration at an upcoming Council meeting.

8. PUBLIC HEARING – TO CONSIDER AN ORDINANCE REPEALING ORDINANCE NO. 99-30, AS AMENDED, AND REVISING CERTAIN PROVISIONS IN THE TIGARD MUNICIPAL CODE RELATING TO THE LOCAL CONTRACT REVIEW BOARD, AND DECLARING AN EMERGENCY
 - a. Open Public Hearing
 - b. Declarations or Challenges
 - c. Staff Report: Community Development Department
 - d. Public Testimony
 - Proponents
 - Opponents
 - e. Staff Recommendation
 - f. Council Questions
 - g. Close Public Hearing
 - h. Council Consideration: Ordinance No. 05-_____

9. PUBLIC HEARING – TO CONSIDER A RESOLUTION REVISING PUBLIC CONTRACTING RULES, FINDINGS SUPPORTING THE REVISED PUBLIC CONTRACTING RULES, AND A REVISED PURCHASING AND CONTRACTING MANUAL
 - a. Open Public Hearing
 - b. Declarations or Challenges
 - c. Staff Report: Community Development Department
 - d. Public Testimony
 - Proponents
 - Opponents
 - e. Staff Recommendation
 - f. Council Questions
 - g. Close Public Hearing
 - h. Council Consideration: LCRB Resolution No. 05-_____

10. PUBLIC HEARING (QUASI-JUDICIAL) ASH CREEK ESTATES – LAND USE BOARD OF APPEALS (LUBA) REMAND - SUBDIVISION (SUB) 2003-00010/PLANNED DEVELOPMENT REVIEW (PDR) 2003-00004/ZONE CHANGE (ZON) 2003-00003/SENSITIVE LANDS REVIEW (SLR) 2003-00005/ADJUSTMENT (VAR) 2003-00036/ADJUSTMENT (VAR) 2003-00037

The following description was read by the Mayor at the February 8, 2005, City Council Meeting:

ITEM ON REMAND: The State Land Use Board of Appeals (LUBA) has remanded City Council's approval of a 29-lot Planned Development Subdivision on 9.3 acres and associated Zone Change, Sensitive Lands, and Adjustment reviews for additional findings to support their decision. This hearing is limited to the four specific assignments of error which are generally: 1) The City's acceptance of lower "K" values in relation to the proposed vertical sag on SW 74th and demonstration that the City Engineer is authorized to approve such deviations to adopted street standards; 2) The requirement that the applicant prepare and submit a tree plan that identifies the size, species, and location of trees on the site, provide a removal plan, protection plan, and mitigation program in accordance with Tigard Community Development Code (TCDC) Chapter 18.790; 3) Revised findings are required for the proposed curb tight sidewalks on SW 74th Avenue and also for the cul-de-sac standards to address the relevant criteria of TCDC Chapter 18.370.C.11; and 4) Additional findings related to the landscape protection criteria of TCDC Chapter 18.745.030.E. A full copy of LUBA's Final Opinion and Order can be obtained from City Hall at cost, or is also available online at <http://luba.state.or.us/pdf/2004/aug04/03194.htm>.

LOCATION: 9750 SW 74th Avenue; WCTM 1S125DC, Tax Lots 300 and 400. **ZONE:** R-4.5: Low-Density Residential District. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally. **APPLICABLE REVIEW CRITERIA:** Tigard Community Development Code Chapters 18.370, 18.745, 18.790 and 18.810.

- a. Continue Public Hearing from February 8, 2005 (Mayor Dirksen)
- b. Declarations or Challenges

- c. Summation by Community Development Department Staff:
 - Review of written testimony received.
 - Review of rebuttal testimony received.
- d. Staff Recommendation
- e. Council Questions
- f. Close Public Hearing
- h. Council Consideration: One option would be to direct staff to prepare a final order to be considered by Council at the Council meeting of March 8, 2005.

11. COUNCIL LIAISON REPORTS

12. NON AGENDA ITEMS

13. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

14. ADJOURNMENT

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COUNCIL MINUTES
TIGARD CITY COUNCIL GOAL-SETTING MEETING
January 18, 2005

Mayor Dirksen called the meeting to order at 4:10 p.m.

Council Present: Mayor Dirksen, Councilors Harding, Sherwood, Wilson
(arrived at 4:45 p.m.), and Woodruff

Also Present: Tigard Youth Advisory Council President Williams; City
Recorder Wheatley

- Following are highlights of the City Council's discussion of the status of the 2004 Council goals:
 - Council discussed the Tigard Beyond Tomorrow Survey results' priorities noted by respondents.
 - Specific recommendations are anticipated soon from the Park and Recreation Advisory Board as a result of the survey recently conducted.
 - Publicity materials should clarify that the City is setting aside \$150,000 for the skate park *as a match* to fundraising by the Skate Park Task Force.
 - Council discussed housing density transfer to the Downtown area.
 - Council noted many of the goals have been ongoing for a number of years.
- Following are highlights of the City Council's discussion about how to approach goal-setting for 2005:
 - Citizen involvement shall be emphasized.
 - Goal work programs shall identify performance measures/outcomes.
 - Look at models to restart citizen involvement
 - Potential resource: www.iowaCIPA.org
 - It was suggested that existing efforts be reviewed to determine if outcomes have been achieved.
 - Council discussed past and current efforts: CIT Program, Community Assessment Program.
 - Council discussed the Citizens for Community Involvement (CCI) program and how the change in scope of this committee might evolve.
 - A comment was made that it will take perseverance to remain positive when trying to develop a working citizen involvement program.
 - The Council reviewed Mayor Dirksen's proposed goals and a copy of this list is on file in the City Recorder's office.

- Council briefly reviewed the difference between goals, objectives, and tasks.
- 2005 Council Goals Formulation - Brainstorming Discussion Notes:
 - Transportation – work with ODOT and let them know where and how Tigard will offer to assist in making improvements at intersections.
 - Identify tangible 99W corridor improvements to alleviate congestion; make this a priority. Aggressively pursue solutions:
 - Address in comprehensive planning (rezoning), limiting connections, back street access, explore other connections.
 - Council discussed whether priority transportation projects have been pursued (review Transportation System Plan and Capital Improvement Program).
 - Augment citizen involvement for credibility and trust.
 - Reviewed elements of strategic financial plan:
 - Audit studies already done to determine whether there is doubling up on efforts
 - Transportation Financing Strategies Task Force – does this group need help with developing transportation system models?
 - Council discussed how much support should the City give to the proposed Bypass Corridor. A comment was that, unless there is a substantial reduction of traffic on 99W, the Bypass would not be supported.
 - Council discussed funding mechanisms through bond measures and gas tax.
 - Consensus of Council was for Councilors Wilson and Woodruff to discuss with City Engineer Duenas a list of transportation priorities.
 - Tax increment financing was discussed. Education is needed so voters understand this financing method.
 - Urban renewal discussions are taking place on a regional basis. A coordinated public relations effort will be needed throughout the affected jurisdictions; the County will take the lead. There was brief discussion on Tigard's unique position with the Charter provision precluding the use of the urban renewal process (tax increment financing).
- Highlights of Council discussion as it developed the 2005 goal list (the first draft of the goal list is attached):
 - Council members agreed to set big goals ("reach for the stars") and then enumerate a number of tasks under each goal.
 - The three goals listed were not prioritized.
 - The Citizens for Community Involvement (CCI) group was discussed, with it being noted that this citizen involvement effort would be useful in an overall approach for all goal areas; there was

discussion that the CCI might be useful as a separate goal area for citizen involvement.

- Metro issues were discussed including the possibility of considering a Metro Charter amendment. One comment was that the City pursue changes with Metro that "...would free our comp plan process to respond to citizen concerns." Another suggestion was to initiate discussions with Metro regarding flexibility with density.
- Address financial strategy; live within budget; revisit the long-term projections to determine the financial status of the City.
 - Discussed long-term projections and health of the general fund
 - Cost containment
 - Recheck Financial Plan – 35% staff increase since FY 99-00? (See January 24, 2005 minutes; Finance Director Prosser clarified that this number should have been 5%, Page 21 of the Draft Strategic Finance Plan).
- Beautification discussion included proceeding with designs for portals to City entrance points and City parks, new logo, City "branding"; i.e., how does the City want to be identified and the need to involve the public. The Mayor reviewed an idea he had with regard to park entrances.
- Council discussed urban reserve areas 63 and 64; developers are interested.
- Public safety – addressing the downtown and 99W will help address crime,

Council will review goal list (provided to Council as separate document) with staff on January 24, 2005 at 7 p.m., in the Library Community Room.

Meeting adjourned: 8:02 p.m.

Attest:

Catherine Wheatley, City Recorder

Mayor, City of Tigard

Date: _____

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Tigard City Council Goals – 2005

1. Revitalize Downtown

- Complete and implement the Downtown Plan
- Urban renewal implementation
 - Public relations plan and vote
- Identify and begin projects

2. Improve 99W

- Identify specific projects
- Prioritize projects/funding
- Leverage additional funding

3. Address Growth

- Comprehensive Plan for Tigard and, if funded, for Bull Mountain
- Metro – seek changes*
- Identify and acquire Parks and Open Space
- Review growth of expenditures and revenue
- Graphic identify (branding)
 - Signage
 - Logo
 - Stationery

*Discussion included the following comments:

- Seek changes at Metro that would free our Comprehensive Plan process to respond to citizens concerns
- Initiate discussion with Metro regarding flexibility with density requirements

COUNCIL MINUTES
TIGARD CITY COUNCIL MEETING
January 24, 2005

- Mayor Dirksen called the meeting to order at 7:10 p.m.
- Council Present: Mayor Dirksen; Councilors Harding, Sherwood, Wilson and Woodruff

Staff Present: City Manager Monahan, City Engineer Duenas, Community Development Director Hendryx, Public Works Director Koellermeier, Assistant to the City Manager Newton, Finance Director Prosser, City Recorder Wheatley,

- 2005 Council Goal-Setting Discussion (continued from January 18, 2005)

Mayor Dirksen opened the discussion among Council and staff members regarding implementation of the list of goals developed by the Council at its January 18, 2005, meeting:

Goal 1 – Revitalize Downtown

- Complete and implement the Downtown Plan
- Urban renewal implementation
 - Public relations plan and vote
- Identify and begin projects

Community Development Director Hendryx reviewed some ideas with Council regarding the implementation of this goal. Specific elements of the goal that could be implemented were discussed including identifying and implementing code amendments.

The urban renewal matter was discussed at length. Mr. Hendryx reviewed the timeline should an urban renewal district be placed before the voters in 2005. Ninety percent of an urban renewal plan (identify projects) would need to be completed by the end of March 2005. The urban renewal election would need to be called for by the City Council no later than the last meeting of July 2005. Mr. Hendryx reviewed some of the requirements for developing an urban renewal proposal: public involvement/comment; work with other jurisdictions.

Mayor Dirksen noted that work is being done now by the downtown task force. A report on the committee's recommendations will soon be coming to the City Council. The Mayor offered that this preliminary work by the Task Force might be incorporated as the public involvement plan is put together.

Discussion followed on the nature of an urban renewal district and introducing the idea to the community about use of an urban renewal district to help finance projects for the downtown. Once a ballot title has been approved by the Council, it will be important that promotion of the ballot measure be carried by a citizens group.

Councilor Wilson noted two of the issues with regard to the City of Tigard being able to make use of an urban renewal district:

1. City Charter restrictions – urban renewal needs approval of voters.
2. State requirements

Community Development Director Hendryx noted that the City could opt to proceed with an effort to change the Charter by asking the voters to rescind the Charter's restrictions on urban renewal.

Mr. Hendryx outlined the process for public education and how tax increment financing works. There was discussion about the current regional effort for an urban renewal district with the County, Beaverton and Tigard for the commuter rail corridor. Tigard needs to decide whether it would like to include the downtown in this effort. A location at Washington Square is also under consideration for the regional proposal.

It was noted that specific public projects need to be identified in an urban renewal plan (e.g., street improvements). The purpose of an urban renewal district is to spark private development capital projects by financing and implementing public improvement projects.

Councilor Sherwood noted that Washington County and the City of Beaverton feel that Tigard is critical to the commuter rail urban renewal project. The Washington Square segment of the commuter rail line is considered to be an important piece.

Discussion followed on whether it would be best to work on the downtown and Washington Square separately or together. Would there be more support for one over the other? Council considered timing. Should the downtown effort go before forward before Washington Square?

Councilor Sherwood commented that almost all the improvements for Washington Square would be street improvements and water drainage. It was commented that, if the City focused on the downtown, it would be more feasible to develop a timeline for implementation this year.

There was discussion on whether it would be helpful to conduct a public opinion poll to determine the level of support for the downtown and the Washington Square for an urban renewal district and tax increment financing.

In February, the Corridor Urban Renewal Committee will update the City Council on its efforts and findings.

Councilor Woodruff commented that the first priority for Tigard is to revitalize the downtown. Tax increment financing would be a source of funding for downtown improvements. The second priority for Tigard is the regional corridor.

There was discussion about the need to do what is necessary to educate voters on tax increment financing.

Councilor Woodruff suggested that the downtown urban renewal be placed on the ballot first and then have the voters consider the regional urban renewal district in May 2006.

If the downtown is developed as a separate district, it would be administered by the City of Tigard. If Washington Square became part of a regional urban renewal district, the governance would be comprised of representatives from Washington County and the cities of Beaverton and Tigard.

There was discussion on how dollars would become available for tax increment financing. Finance Director Prosser explained the first hurdle is to obtain seed money. Bonds can be issued, however the bond community would first like to see evidence of success (economic growth and stability) before it would be supportive.

Discussion followed on the development of the governance model that would allow jurisdictions to determine which projects are put forward in a regional effort. Also discussed was the need to identify boundaries. Once a district is formed, the boundaries could be expanded up to 20 percent at a later time. Community Development Director Hendryx confirmed that separate locations within a larger region can be part of the same district.

Mayor Dirksen confirmed that the Downtown Task Force Chair Mike Marr expressed concern with the City Council sitting as the Urban Renewal Agency. Mr. Marr suggested to the Mayor that the Agency members be appointed by the Council.

Councilor Harding said it was her understanding that those in the community who had been opposed to urban renewal in the past were no longer in the City of Tigard.

Councilor Woodruff summarized that the objectives in the Council's 2005 goals were as stated; therefore, activities should move forward on the downtown -- the Washington Square effort is secondary.

Councilor Harding said the Downtown Task Force should be shown how much they are appreciated.

There was discussion on starting and completing projects this year, regardless of whether or not an urban renewal district gets formed.

Community Development Director Hendryx noted the Downtown Task Force would be meeting with the City Council in March.

The Council members noted the need for staff to flesh out the downtown goal as stated with details, including projects, timelines, and responsibilities.

Time was taken by Council at this point in the meeting to advise staff about the Council's overall approach to 2005 goal implementation. Goals should be achieved with community involvement. Goals, when identified, should also work toward overall enhancement of the City's appearance.

Council members agreed with Finance Director Prosser's suggestion to develop a preamble to the 2005 Council goals. The preamble would outline the overlay of the underlying principles for goal achievement, including community involvement, adhering to the goals and strategies prepared by the Vision Task Force, enhancing the appearance of the city, and measuring results.

Goal 2 – Improve 99W

- Identify specific projects
- Prioritize projects/funding
- Leverage additional funding

This goal, noted Councilor Wilson, includes not only identifying projects but also identifying ways to visually improve the 99W corridor.

There is a need to assess the 99W corridor to determine what is needed. For example, Councilor Wilson commented that there are areas of right of way along 99W that do not appear to belong to anything.

99W is difficult to cross; research ideas to make it easier.

Mayor also noted that streetscape improvements are needed for 99W.

City Engineer Duenas reviewed some of his ideas, which included encouraging new, attractive development.

Mr. Duenas reviewed the Hall/99W intersection, which is funded by MSTIP III dollars. Councilor Sherwood noted that since the Safeway store has closed, this intersection is less congested. The Oregon Department of Transportation (ODOT) is considering whether some of the access points from this shopping center property should be closed. An update on the scope of this \$4.3 million MSTIP project will come to the Council in April. Construction is anticipated to begin in 2006.

Mr. Duenas referred to the analysis of the McDonald intersection. Widening at McDonald Street does not look feasible. He reviewed some lane improvements (lengthening the left-turn lane, establishing a right turn lane).

There was discussion about adjusting timing of traffic signals on 99W.

The Greenburg Road intersection was discussed: improvements, realignments and use of some of the connector streets.

Councilor Wilson noted the need to identify a series of small improvements over many years, which would improve intersections, limit access, and create "backage" roads. Mayor Dirksen noted some of the curb cuts along 99W should be closed.

Councilor Wilson said the City should get ready for redevelopment and look for opportunities now.

Councilor Woodruff said he would not like to see more studies done; rather, he would like specific projects to be identified for completion by the end of 2005.

There was discussion on developing a "grand plan," and then approach ODOT to determine what could be done. A list should be developed for ODOT's review, which would include specific recommendations for each intersection. Mr. Duenas referred to the Transportation System Plan which outlines proposals for Walnut, McDonald, Greenburg, Hall, and the off-ramp at Highway 217.

Councilor Wilson reiterated that some projects should be done this year, but also staff should plan for long-range projects. Mr. Duenas said he could identify areas where "backage" roads could be located.

Councilor Woodruff said he would like to see modeling that would show what projects would give the greatest percentage of benefit.

Mr. Duenas said he could prepare a schedule of incremental improvements.

There was brief discussion of Bull Mountain Road with regard to a pedestrian crossing.

Goal 3 – Address Growth

- Comprehensive Plan for Tigard, and if funded, for Bull Mountain
- Metro – seek changes
- Identify and acquire Parks and Open Space
- Review growth of expenditures and revenue
- Graphic identity (branding)
 - Signage
 - Logo
 - Stationery

Community Development Director Hendryx noted that a work program is being developed for the Comprehensive Plan. A joint meeting with Council and the Planning Commission is scheduled for February 15, 2005. There was discussion about how much extra it would cost to do the planning for Bull Mountain. Community Development Director Hendryx commented that it is estimated that the two- to three-year Comprehensive Plan update will cost about \$200,000 for outside resources. In addition, all of the long-range planners' and some of the current planners' time would be devoted to the Comprehensive Plan update. He said that the Bull Mountain area is about 20 percent the size of incorporated City of Tigard. He added that the Bull Mountain area does not have the inventories completed, which has already been done for the City of Tigard.

Councilor Wilson commented that the fallout of the Bull Mountain Annexation Plan has not been factored in. This area is proceeding on "auto pilot." The City needs to determine what, if anything, needs to be done. Mayor Dirksen said there is a need to plan for the Bull Mountain area; however, he would not want to do it for free. Councilor Harding questioned whether this is the way to proceed, knowing that the City would get the benefit of the planning later. Councilor Woodruff commented that people in the Bull Mountain area appear to want to have the planning done and, perhaps, they should be asked how this planning should be funded. There is an upcoming meeting scheduled, called by Washington County Chair Tom Brian, to discuss the Bull Mountain unincorporated area. Representatives have been asked to attend from the City, County and unincorporated Bull Mountain community.

Community Development Director said the scope of the planning area for the Comprehensive Plan needs to be identified. He referred to some planning responsibilities referred to in the urban services agreement. This agreement needs to be reviewed as well.

There was discussion on urban reserve areas 63 and 64. Developers are interested in pursuing new development; however, before development can occur, the area must be part of a jurisdiction.

Councilor Sherwood raised the issue of whether or not the Metzger area would be included in the Comprehensive Plan update. She said she thought this area should be included. Mayor Dirksen noted there would be less significant impact on the City from this area because Metzger is almost all developed. The Metzger residents appear to be satisfied with the area as it is now. Incorporating this Metzger area in the Comprehensive Plan Update might not mean a significant additional cost. Some redevelopment is occurring in Metzger and some of the comprehensive planning has been completed as part of the Washington Square Regional Plan.

There was discussion on the "Metro – seek changes" objective. Mayor Dirksen noted that other jurisdictions in the County appear to be looking at asking for changes. The Mayor referred to a recent resolution adopted by the City of Tualatin and Tualatin is asking other cities to support this action. The Mayor said he would provide a copy of the Tualatin resolution to the Council members for review.

There was discussion on the "parks and open space" objective. Public Director Koellermeier discussed this objective with Council and noted the Parks and Recreation Advisory Board (PRAB) is formulating ideas that will be presented to the Council. Projects to be done in 2005 would be identified. The Mayor noted that potential parks for the City and for Bull Mountain should be identified. Council members noted they would be interested in land for parks – not just the power line land.

There was discussion on prioritization and utilization of Parks System Development funds. Requirements for using SDC dollars include a match. Another funding mechanism may be through a park bond.

When land donations are offered for parks, such land should be useable. There was brief discussion about a report from citizen Gretchen Buehner regarding acreage recently annexed where some land might be available for parks. This possibility should be investigated. Also park land in Areas 63 and 64 should be identified.

It was noted that it is a "given" that staff should pursue trail land available in PGE and BPA easements. Trail connections and future opportunities should be explored.

Councilor Harding questioned that since Washington County is state-park deficient, would it be worthwhile to lobby for a park in Area 63 and 64? A wildlife

refuge of about 2000 acres is next to Area 63. Finance Director Prosser said the policy of the state is that it will not site state parks within urban areas.

The objective to "review growth of revenue and expenditures" was discussed. Council members want the City to live within revenue and set priorities. Mayor Dirksen referred to the need for discussion on how soon a deficit will occur for the City of Tigard. Councilor Wilson commented that "finance" might not be a Council goal, but it is an element that should always be addressed. All government agencies and the private sector are feeling the same economic pressure and Councilor Wilson said he did not have a good grasp of the trends for Tigard. Finance Director Prosser noted there is a meeting scheduled with the Budget Committee/Council for January 25. The purpose of this meeting is to set the stage for the upcoming budget preparation process. Also, information about forecasts and trends could be presented at this time. Tigard has historically prepared conservative budgets.

Discussion followed on the cost of staffing: private sector vs. public sector wages and benefits. Councilor Harding noted the loss of benefits in the private sector and noted her observations of wages and benefits for city employees when compared to private sector employees in this competitive employment market.

Union negotiations were discussed briefly. Adjustments have been made to the pay scale and employees are now paying a share of the cost of health insurance premiums. There was a comment that the City needs to continue to make headway in these areas. It was noted that a police arbitration matter has yet to be resolved. There was discussion about public relations among City employees so they are aware of the financial constraints and that "we are all in this together."

Councilor Harding said she would like to see a true comparison of Tigard's tax rate with that of neighboring cities taking into account the services offered.

Finance Director Prosser commented that avoiding a deficit later rather than sooner has been due in large part because the Council has been receptive to adjusting fees and charges to increase revenues.

Discussion followed on "graphic identity (branding)." Assistant to the City Manager Newton commented about ideas from the Youth Advisory Council and the logo. The Mayor noted the Council had discussed developing a graphic design for city signage and the need for professional assistance. Councilor Sherwood noted it would be best to obtain the services of a professional designer rather than trying to develop proposals by a committee.

The Vision Task Force has prepared suggestions with regard to City identity. There was discussion about making a list of images of what the people in the City of Tigard would like to be known for, for example: "city meets country," or "a village." The logo design could depict aspiration imagery as opposed to what the image is now. The branding idea would be to develop a number of elements: fonts, colors, signage, etc.

Additional ideas were suggested including a slogan contest, which could be conducted describing what Tigard wants to be known for. One idea the Mayor suggested was "family friendly."

The Cityscape newsletter was discussed briefly. Assistant to the City Manager Newton suggested that the "purpose" be articulated for the newsletter.

Overall approach to goals: Councilor Woodruff said that the Council wanted to see projects to be completed in 2005, or make it "live by the end of 05."

III. Non-Agenda Items

Council reviewed the Council/Staff Liaison Appointment chart. The following adjustments and confirmations were made:

- Councilor Harding will serve on the Tualatin Basin Natural Resources Coordinating Committee (replacing Councilor Wilson).
- Councilor Harding will serve on the Washington County Coordinating Committee (replacing Councilor Wilson)
- Former Councilor Brian Moore will continue to serve on the Highway 217 Planning Committee
- Councilor Woodruff, it was noted, is serving on the Joint Water Commission and will continue to serve.
- Councilor Harding will serve on the Metro Area Communications Commission Board (replacing former Councilor Ken Scheckla).

Councilor Harding said that volunteers should be acknowledged for their service. She has heard comments from past volunteers that they did not feel they had been thanked for their contributions.

IV. Adjournment: 9:30 p.m.

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

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AGENDA ITEM # 3.2
FOR AGENDA OF 02/22/05

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE A Resolution Approving Budget Amendment #9 to the FY 2004-05 Budget to Increase Appropriations in the Library Department for Additional Hours of Operation to Re-open the Library on Sundays.

PREPARED BY: Michelle Wareing DEPT HEAD OK  CITY MGR OK cl

ISSUE BEFORE THE COUNCIL

Should the City Council approve Budget Amendment #9 to the FY 2004-05 Adopted Budget to increase appropriations in the Library Department for additional hours of operation to re-open the Library on Sundays?

STAFF RECOMMENDATION

Staff recommends approval of Budget Amendment #9.

INFORMATION SUMMARY

On January 25, 2005, Margaret Barnes, Library Director, presented to City Council a recommendation to add additional hours of operation to re-open the Library on Sunday through the end of the fiscal year. It was projected that it would cost about \$26,000 for the remainder of the fiscal year to re-open the Library for four hours on Sundays. It was decided that the \$26,000 would be funded by the Grace Tigard Houghton bequest. Council gave direction to re-open the Library on Sunday through the end of the current fiscal year and to use the Houghton bequest to fund the additional costs.

The Houghton bequest funds are held in reserve in the Facility Fund. To transfer these funds from the Facility Fund to General Fund to pay for the additional operating hours would require a supplemental budget. A supplemental budget is an involved and long process. For expediency, it was decided that the \$26,000 would be transferred from the General Fund's Contingency to the Library Department's budget in the Community Services Program for this fiscal year. In FY 05/06, a transfer from the Facility Fund, Houghton bequest, to the General Fund will be set up to repay the General Fund for the additional costs. Library staff will track actual personal services costs to establish the actual amount that needs to be transferred, but ensure actual costs do not exceed the \$26,000 maximum.

OTHER ALTERNATIVES CONSIDERED

Do not approve the resolution.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Urban and Public Services, Library

ATTACHMENT LIST

Resolution including Attachment A.

FISCAL NOTES

This action will transfer a total of \$26,000 from the General Fund Contingency to Library Department budget, Community Services Program, for the funding of the additional hours of operation to re-open the Library on Sunday. Also, a transfer from the Facility Fund to General Fund, to repay the General Fund for actual costs not to exceed \$26,000, will be established in the FY 05/06 Budget.

CITY OF TIGARD, OREGON

RESOLUTION NO. 05-_____

A RESOLUTION APPROVING BUDGET AMENDMENT #9 TO THE FY 2004-05 BUDGET TO INCREASE APPROPRIATIONS IN THE LIBRARY DEPARTMENT FOR ADDITIONAL HOURS OF OPERATION TO RE-OPEN THE LIBRARY ON SUNDAYS.

WHEREAS, the failure of the Washington County Cooperative Library Services (WCCLS) ballot measure caused the Tigard Public Library to receive less funding; and

WHEREAS, the reduced funding required the Library to close on Sundays; and

WHEREAS, citizens and Library users have requested that Library re-open on Sundays; and

WHEREAS, the City Council gave direction on January 25, 2005 to use Grace Tigard Houghton bequest funds to re-open the Library for four hours on Sunday through the end of the current fiscal year; and

WHEREAS, for expediency it was decided that the \$26,000 needed to open the Library on Sunday would be transferred from the General Fund Contingency to the Library Department budget; and

WHEREAS, a transfer from the Facility Fund, where the Grace Tigard Houghton bequest is held in reserve, to the General Fund will be established in the FY 2005-06 Budget to repay the General Fund for actual costs not to exceed \$26,000.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The FY 2004-05 Adopted Budget of the City of Tigard is hereby amended as shown in Attachment A to this resolution for the funding of additional hours of operation to re-open the Library on Sunday.

SECTION 2: A transfer from the Facility Fund to the General Fund will be established in the FY 2005-06 Budget to repay the General Fund for actual costs not to exceed \$26,000.

SECTION This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2005.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

Attachment A
FY 2004-05
Budget Amendment # 9

FY 2004-05 Revised Budget	Budget Amendment # 9	Revised Revised Budget
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General Fund

Resources

Beginning Fund Balance	\$7,751,279		\$7,751,279
Property Taxes	9,398,805		9,398,805
Grants	237,485		237,485
Interagency Revenues	2,435,609		2,435,609
Development Fees & Charges	372,294		372,294
Utility Fees and Charges	0		0
Miscellaneous Fees and Charges	184,160		184,160
Fines and Forfeitures	592,840		592,840
Franchise Fees and Business Tax	2,944,042		2,944,042
Interest Earnings	172,500		172,500
Bond/Note Proceeds	0		0
Other Revenues	68,200		68,200
Transfers In from Other Funds	2,145,314		2,145,314
Total	\$26,302,528	\$0	\$26,302,528

Requirements

Community Service Program	\$10,800,402	\$26,000	\$10,826,402
Public Works Program	2,446,197		2,446,197
Development Services Program	2,554,196		2,554,196
Policy & Administration Program	344,706		344,706
General Government	0		0
Program Expenditures Total	\$16,124,801	\$26,000	\$16,150,801
Debt Service	\$0		\$0
Capital Improvements	\$0		\$0
Transfers to Other Funds	\$3,758,056		\$3,758,056
Contingency	\$511,187	(\$26,000)	\$485,187
Total Requirements	\$20,394,044	\$0	\$20,394,044
Ending Fund Balance	5,887,784		5,887,784
Grand Total	\$26,281,828	\$0	\$26,281,828

AGENDA ITEM # 3,3a.
FOR AGENDA OF February 22, 2005

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Award of Contract for the Construction of North Dakota Street Pedestrian Crosswalk

PREPARED BY: Vannie Nguyen DEPT HEAD OK: Agustin P. Duenas CITY MGR OK: CP

ISSUE BEFORE THE COUNCIL

Shall the Local Contract Review Board approve the contract award for the construction of North Dakota Street Pedestrian Crosswalk?

STAFF RECOMMENDATION

Staff recommends that the Local Contract Review Board, by motion, approve the contract award to **Accord Construction & Environmental, Inc.** in the amount of **\$27,176.99**.

INFORMATION SUMMARY

North Dakota Street is one of the most heavily traveled neighborhood routes in Tigard as it provides a connection between Scholls Ferry Road to the west and Highway 217 to the east. The street segment west of the existing Fanno Creek bridge carries approximately 5,500 vehicles per day with an 85th percentile speed of 38.5 miles per hour.

The Fanno Creek trail extends both north and south of North Dakota Street. However, the trail segments are not aligned and are separated by a jog of approximately 185 feet along the street. The north trail segment is located east of the south trail segment. Trail users must walk along the street and cross the street mid-block to continue along the trail. Roadway safety during peak hours is a concern for the community especially during the winter time when drivers may be unable to respond properly to pedestrians crossing the street at this location.

To provide a designated crossing point for pedestrians and to provide a safe place for pedestrians to walk between the two trail segments, this project will install a marked mid-block crosswalk on the street at the intersection of the south segment with the street. The street will be widened on the north side a distance of approximately 350 feet to connect the two paths and provide a paved walking surface for pedestrians and to appropriately address the drainage issues created by the widening. A 12-inch storm drain pipe would be installed to replace the existing ditch that is backfilled due to the widening of the road. The new crosswalk would be marked using the high visibility pattern specified by ODOT (Oregon Department of Transportation) and MUTCD (Manual on Uniform Traffic Control Devices). In addition, advance warning signs and stop bars would also be installed in both directions to alert drivers of the marked pedestrian crossing.

This project was advertised for bids on January 24 and January 27, 2005 in the Daily Journal of Commerce and the Tigard Times respectively. The bid opening was conducted on February 7, 2005 and the bid results are:

Accord Construction & Environmental	Portland, OR	\$27,176.99
Integrity Excavation & Construction	Battleground, WA	\$30,063.40
Parker Northwest Paving	Oregon City, OR	\$34,200.00
D&D Concrete & Utilities	Tualatin, OR	\$34,724.00
Cipriano & Son Construction	Boring, OR	\$36,677.50
Paul Lambson Contracting	Battleground, WA	\$37,292.00
Civil Works NW	Vancouver, WA	\$37,208.85
CR Woods Trucking	Sherwood, OR	\$38,191.98
Kerr Contractors	Woodburn, OR	\$38,196.00
C&W Grading	Tualatin, OR	\$53,293.57
Engineer's Estimate		\$34,000

Based on the bids submitted, the lowest responsive bid of \$27,176.99 submitted by Accord Construction & Environmental appears to be reasonable. Staff recommends approval of the contract award to this qualified lowest bidder.

OTHER ALTERNATIVES CONSIDERED

None

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

This project meets the Tigard Beyond Tomorrow Transportation and Traffic Goal of "Improve Traffic Safety".

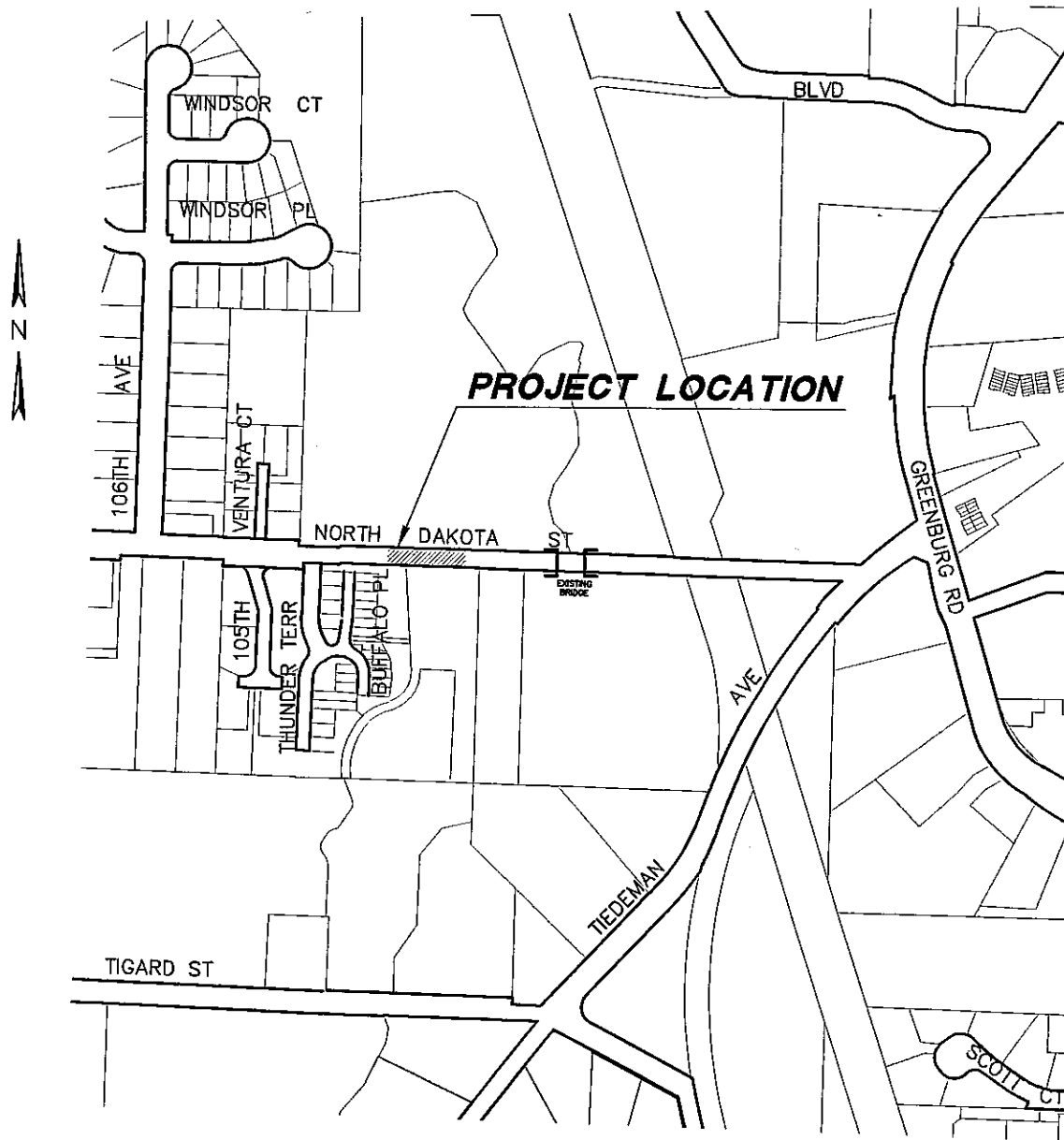
ATTACHMENT LIST

Project location map

FISCAL NOTES

This project is funded in the amount of \$55,000 in the FY 2004-05 Gas Tax Fund. This amount is sufficient to award the contract of \$27,176.99 to Accord Construction & Environmental, Inc.

NORTH DAKOTA STREET PEDESTRIAN CROSSWALK 350 FEET WEST OF BRIDGE



CITY OF TIGARD, OREGON
LOCAL CONTRACT REVIEW BOARD (LCRB) AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Approve Amendment to Engineering Services Contract for Murray Smith & Associates, Inc., for Design of 550-foot Zone Reservoir No. 2

PREPARED BY: Brian Rager  DEPT HEAD OK  CITY MGR OK 

ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

The proposed contract amendment for additional services on the 550-foot Zone Reservoir No. 2 project exceeds 20 percent of the contract amount. Administrative Rule 10.090(1)(b) states that any change to a contract should not exceed 20% without competitive bidding. Staff requests the LCRB waive Administrative Rule 10.090(1)(b), and authorize the amendment.

STAFF RECOMMENDATION

Staff recommends the LCRB waive Administrative Rule 10.090(1)(b) and authorize the City Manager to execute an amendment to the Engineering Services contract with MSA in the amount of \$129,062.00.

INFORMATION SUMMARY

In May, 2003, the City entered into a contract with MSA for design services for the 550-foot Zone Reservoir No. 2. The proposed location for the tank is on the Alberta Rider Elementary School site, located on SW Bull Mountain Road. MSA performed preliminary engineering work for a location on the site approved by the School District design team. However, the School District design team changed the location of their school building through the course of their design work and the tank location no longer is available. The District offered the City another location on the site near the northeast corner. Staff has reviewed this new location, along with another site across Bull Mountain Road and has determined that the Rider site will be problematic and expensive for the construction of a reservoir. Staff is currently negotiating with the land owner of the alternate location in the area. Regardless of location, work already performed by MSA will need to be "re-done".

In order to move forward with a new location, MSA will need to perform preliminary engineering work again. Attached is a proposed contract amendment from MSA that explains the steps they will take and the financial impact of the amendment. It should be noted that the attached amendment form would not necessarily be used by Staff. It is attached primarily to show the scope and value of the additional work. An amendment on City forms would be executed. The preliminary engineering work plus additional work associated with a new location is estimated to cost approximately \$129,062.00. The alternative to approving this amendment would be to issue a Request for Proposals (RFP) for this specific preliminary engineering work. Staff recommends against this option for several reasons: 1) MSA holds the contract for the remaining design work on the reservoir, which would mean the City would have to coordinate between two engineering consultants for the same project; 2) MSA is most familiar with this site and this project; and 3) the reservoir project has been delayed due to the issue mentioned in the above paragraph and an RFP process would add at least two more months to the delay.

OTHER ALTERNATIVES CONSIDERED

Do not approve the contract amendment and direct staff to issue a Request for Proposals for the additional work.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Urban & Public Services, Water & Stormwater Goal #1, Strategy #3, "Build identified water capital improvements." The Rider School site was selected as the target site for this capital improvement. Since that site is not feasible, the City must quickly secure an alternate site in order to complete the project.

ATTACHMENT LIST

Proposed Amendment No. 1 to Agreement for Professional Services

FISCAL NOTES

The amendment will increase the value of the contract by \$129,062. The original contract amount was \$268,355.00. Therefore, this amendment is a 48% increase.

**AMENDMENT NO. 1
TO AGREEMENT FOR
PROFESSIONAL ENGINEERING SERVICES
FOR
550 FOOT RESERVOIR
FOR
CITY OF TIGARD, OREGON**

THIS AMENDMENT, dated the _____ day of _____, 2005, modifies the agreement and contract made and entered into at Tigard, Oregon dated May 12, 2003, by and between City of Tigard, hereinafter called the "City", and MURRAY, SMITH & ASSOCIATES, INC. hereinafter called the "Engineer", and provides for engineering services for design, bidding and construction. This amendment is hereby made a part of the above referenced agreement to the same extent as though it was originally included therein.

This amendment modifies the original scope-of-work to address the relocation of the reservoir from the Rider School Site to the Price Property. Some of the tasks are similar to the original work program but the budget has been updated to reflect fees that have been previously spent on such tasks. Also, some tasks have been revised to reflect additional efforts associated with design of the reservoir at the new location.

The agreement is hereby amended as follows:

On page 1 of the Agreement, in Item No. 3, Engineer's Fee, **REMOVE** the last sentence and **REPLACE** with the following:

"The Basic Fee shall not exceed the amount of **three hundred ninety-seven thousand, four hundred and eighteen** dollars \$397,418 without prior written authorization (this total does not include the \$5,000 for the Price Property Siting and the \$4,000 for Additional reservoir siting). This total is based on the following: The original budget to design the reservoir in the south east corner of the Ryder School Site is \$268,355. Of that original budget, \$77,620 has been spent through January 2005. This amendment is intended to provide fees to replace those previously expended developing designs for the original site and to add fees required to design the reservoir at the Price site. The additional fees requested to design the reservoir at the Price site total \$51,442.34. Therefore the additional fees requested for this amendment totals $\$51,442 + \$77,620 = \$129,062$."

In Exhibit 1, Work Plan, is amended as follows:

Item No. 1 – Task A Preliminary Design

On page 1, after the second sentence of paragraph 1, **ADD** the words "The revised predesign will include predesign layout of the reservoir at the Price site and will address hydraulic interests relative to the overflow elevation for the reservoir".

Item No. 2 – Task B Conditional Use Permit Application

On page 3, **REMOVE** the first paragraph and **REPLACE** with the following:

“Under this task, assistance with obtaining a conditional use permit for the project from the City of Tigard will be provided. The Engineer will represent and assist the City with the preparation and submittal of a conditional use permit application and supporting documentation such as renderings, maps and other such documents. It is currently anticipated that this application will be a quasi-judicial Type III application to the City of Tigard requiring a public hearing process.

The Engineer will assist the City during the application processing and assist with presentations to County staff, County Planning Commission and County Commissioners, if necessary. The Engineer will coordinate its work with the City staff and City legal counsel. It is assumed that this process will not be a contested one”.

Item No. 3 – Task C Geotechnical Investigations

On page 4, in the first sentence of paragraph numbered 1), **REMOVE** the words “Drill two borings within the footprint of the proposed reservoir” and **REPLACE** with the following sentence “Drill three borings within the footprint of the proposed reservoir”.

Item No. 4 – Task D Public Meetings and Presentations

This task will remain as shown in the original scope.

Item No. 5 – Task E Final Design Services

On page 6, **REMOVE** all of the bulleted items and **REPLACE** them with the following:

- “Reservoir designs assume a fully buried prestressed concrete reservoir designed and constructed in accordance with AWWA D110 standards.
- Reservoir top treatment surface feature designs and final site improvement engineering will be completed as part of this project.
- Reservoir related drainage designs will be coordinated with School District site development designs. Reservoir drainage facility designs assume connection to existing storm drainage system located east of the Rider School Site.
- Project designs assume that transmission piping will extend south from the Price site, adjacent to the Rider School property and extend east from Rider School site where connection will be made to the transmission piping improvements completed by the developer that is developing a subdivision in this area. The piping depth ranges from minimum cover to approximately 20 feet deep. It is assumed that the entire pipe length will be constructed using open trench methods. The length of the pipe is approximately 1200 linear feet.

- Basic electrical features are included in project designs. Telemetry designs will be coordinated with the City's systems integrator.
- Access road and parking facility final designs will be designed on the Price site for the new reservoir.
- The half street improvements along the proposed reservoir site on Bull Mountain Road will be designed as part of this project.
- Reservoir overflow piping will extend north from the reservoir and be installed through easements on private property and to a natural drainage way. Length of the pipe is approximately 1300 linear feet."

Item No. 6 – Task F – Permits, Approvals and Property Acquisition

On page 8, to the end of the paragraph numbered "2)" **ADD** the following:

"Approximately three easements will be prepared for the overflow line extending north from the reservoir and three easements will be prepared for the waterline extending south along the Rider School Site."

Item No. 7. – Task G – Assistance During Bidding

This task will remain as shown in the original scope.

Item No. 8 – Task H – Engineering Services During Construction

On page 10, **ADD** at the end of the first sentence in the first paragraph the following:

"Additional engineering related efforts during construction of the reservoir at the Price site include construction observation and management for the longer water and overflow piping and the required half street improvement on Bull Mountain Road.

Item No. 9 – Task I – Design and Construction Surveys

On page 12, **REMOVE** the first paragraph and **REPLACE** with the following:

"Under this task, design surveys will be performed to provide the topographic and other information necessary to complete project designs. Topographic surveys will be conducted for the Price site and the overflow piping extending north of the Price site. Surveys provided by the school and various developers will be used for the off-site water piping. Construction surveys will be completed only to the extent necessary to set an elevation reference point and base line for the contractor to complete detailed surveys."

Item No. 13 – Task J – Project Partnering

This task will remain as shown in the original scope-of-work.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed in duplicate by their respective authorized officers or representatives.

<CLIENT>

By:

<Client Representative, Title>

MURRAY, SMITH & ASSOCIATES, INC.

By:

Philip H. Smith, President

AGENDA ITEM # 4
FOR AGENDA OF 2-22-05

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Tigard Police Recognizes Outstanding Citizen Assistance

PREPARED BY: Jim Wolf DEPT HEAD OK WMD CITY MGR OK CR

ISSUE BEFORE THE COUNCIL

Request Tigard City Council join Police Chief Bill Dickinson in formally recognizing the outstanding efforts exhibited by several Tigard area citizens. The quick action taken by these citizens who witnessed a crime, provided police helpful assistance. As a result, Tigard Police were able to arrest and charge the people responsible.

STAFF RECOMMENDATION

Staff recommends recognizing this special group of citizens with a certificate of appreciation and verbal acknowledgement by Chief Dickinson.

INFORMATION SUMMARY

The Tigard Police Department would like to recognize several community members for their invaluable assistance rendered as a result of witnessing a crime. "Community Policing" is a partnership between the community and law enforcement. What transpired between the following citizens and Tigard Police is clear evidence that further illustrates the benefits when law enforcement embraces the support of the community.

On December 4th, Signe Martin became suspicious of a vehicle in front of her as she traveled through several Tigard neighborhoods and along Hall Blvd. It became apparent to Ms. Martin that the driver may have been driving while impaired. Ms. Martin telephoned police dispatch and continued to follow the suspicious vehicle while relaying information relative to the location. During the course, the suspect vehicle ran a red light which created a gap in the observation. After losing sight of the suspicious driver, Ms. Martin continued looking for the vehicle. She ultimately spotted it and advised police the location. A Tigard Police Officer arrived shortly and began an investigation. The driver was ultimately arrested for driving while under the influence. It is evident that this citizen was taking responsibility for the safety of the entire community. Her actions are a driving force for community policing.

Early evening on December 21st, two young boys that were waiting in their parent's vehicle witnessed a pedestrian being struck by a hit and run motorist at the intersection of Main and Burnham Street. The boys were key to making the first call to 9-1-1 in efforts to get assistance for the injured pedestrian. Trevor and Tanner Ellenson also provided police helpful information based on their eye witness observations. The information provided by the two brothers assisted with the investigation. Based in part of the help provided by both Trevor and Tanner, Tigard Police were able to arrest the driver responsible about two hours after the incident occurred. The importance of citizens taking the necessary action to help police is clearly demonstrated here. More evident is the commendable

and clear thinking actions taken by these two boys. It also serves to illustrate that age does not present boundaries when it comes to community policing efforts.

Finally, late evening on December 22nd proved once again the integral relationship between citizens and police. Erik Ramseyer chose to become involved. While shopping at the local Haggen Grocery at about 11:30PM, his attention was drawn to a commotion near the store entrance. An employee told him someone was stealing beer. Mr. Ramseyer followed the suspect out into the parking lot area while making a call to police dispatch advising what occurred. At one point, Mr. Ramseyer confronted the suspect, but backed off when the thief threatened him with a knife. However, Mr. Ramseyer was still able to follow and provide dispatch information at a safer distance until police arrived shortly thereafter. The suspect was ultimately taken into custody by Tigard Police. Mr. Ramseyer's persistence, albeit with an element of risk as well, resulted in the successful resolution of the incident. More importantly, Mr. Ramseyer also understood his limits as well. Once again, the invaluable results are evident when the community and law enforcement work together.

It is incumbent on us to look ahead as to how citizens and police can further strengthen relationships. The outstanding actions indicated by these four individuals is evidence of a committed relationship with their community and police. It is with great pride that Signe Martin, Trevor Ellenson, Tanner Ellenson and Erik Ramseyer be congratulated and thanked for their exceptional decision making efforts and actions. The City of Tigard appreciates their assistance and wants them to accept our thanks as evidenced by the certificates of appreciation created for them.

OTHER ALTERNATIVES CONSIDERED

None

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Not applicable

ATTACHMENT LIST

Copies of Certificate of Appreciation to be presented to each honored citizen

FISCAL NOTES

No cost involved

CERTIFICATE OF APPRECIATION

This certificate is awarded to

Erik Ramseyer

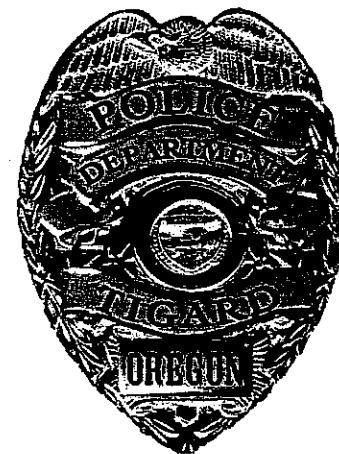
In recognition of the assistance you provided to the Tigard Police Department resulting in the arrest of a theft and robbery suspect on December 22, 2004.

Your unwavering determination and support for Tigard Police is commended.

Presented this 22nd day of February, 2005.

William Dickinson

William M. Dickinson, Chief of Police



CERTIFICATE OF APPRECIATION

This certificate is awarded to

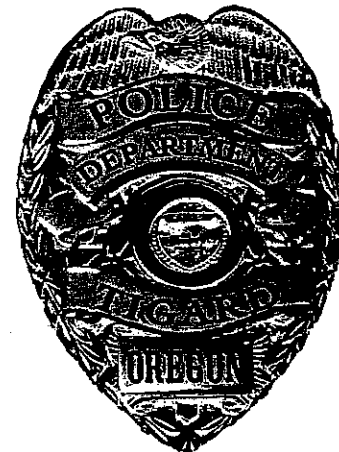
Signe Martin

In recognition of the assistance you provided to the Tigard Police Department resulting in the arrest of a motorist driving under the influence on December 4, 2004.

Your unwavering determination and support for Tigard Police is commended.

Presented this 22nd day of February, 2005.

William Dickinson
William M. Dickinson, Chief of Police



CERTIFICATE OF APPRECIATION

This certificate is awarded to

Tanner Ellenson

In recognition of the assistance you provided to the Tigard Police Department resulting in the arrest of a hit and run motorist that struck a pedestrian on December 21, 2004.

Your unwavering determination and support for Tigard Police is commended.

Presented this 22nd day of February, 2005.

William Dickinson

William M. Dickinson, Chief of Police



CERTIFICATE OF APPRECIATION

This certificate is awarded to

Trevor Ellenson

In recognition of the assistance you provided to the Tigard Police Department resulting in the arrest of a hit and run motorist that struck a pedestrian on December 21, 2004.

Your unwavering determination and support for Tigard Police is commended.

Presented this 22nd day of February, 2005.

William M. Dickinson
William M. Dickinson, Chief of Police



CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Approve an Intergovernmental Agreement (IGA) between the City of Tigard and TriMet for the Assignment of a Full-Time Tigard Police Officer to the Transit Police Division

PREPARED BY: Mike Bell/Michelle Wareing DEPT HEAD OK lmm CITY MGR OK cl

ISSUE BEFORE THE COUNCIL

Consider approval of an Intergovernmental Agreement with TriMet to assign a full-time Tigard officer to the Transit Police Division and authorize the Interim City Manager to enter into such agreement.

STAFF RECOMMENDATION

Approve the Intergovernmental Agreement with TriMet to assign a full-time Tigard officer to Transit Police Division and authorize the Interim City Manager to sign the Intergovernmental Agreement.

INFORMATION SUMMARY

TriMet contracts with the Portland Police Bureau, Multnomah and Washington Counties, cities of Beaverton, Gresham, and Milwaukie for police services. This multi-agency team is supervised by the Portland Police Bureau and constitutes the Transit Police Division, which maintains the safety and security of the transit system by enforcing applicable ordinances and state laws throughout the TriMet service area, which includes the City of Tigard. There is currently an officer position opening and the City of Tigard has been asked to participate in the Transit Police Division.

A City of Tigard officer would be assigned full-time to the Transit Police Division. Any Tigard Officer assigned will gain valuable training and experience in transit related issues, which is needed with the advent of commuter rail in addition to Tigard's two major transit stations (Commercial Street and Washington Square) already in operation. The officers that are assigned to the Transit Police Division will share their experience gained from this assignment with other Tigard officers.

The IGA that is to be signed has an effective date of March 1, 2005 and will expire on June 30, 2005. Prior to expiration, all police agencies will sign new IGA's with TriMet that will become effective July 1, 2005. These new IGA's will be annual, but automatically renewing unless terminated sooner, for a total of five years to June 30, 2010.

TriMet will pay all personal services costs plus a 10% overhead charge for the Tigard officer assigned to the Transit Police Division. The City will bill the Portland Police Bureau (managing agency of the Transit Police) each month.

TriMet will also provide the necessary materials and any special training for the officer to perform his/her job while at the Transit Police Division. Tigard will be responsible for providing a fully operational police officer. Assigning an in-service officer to TriMet would require hiring an additional officer to "back-fill" the assigned officer position. A budget amendment to authorize an additional position and costs associated with the new position is also on the February 22 agenda and contingent upon the City Council's authorization of this IGA.

Advantages: Tigard receives experience and training in transit policing at no cost.
Tigard's police staffing ratio increases from 1.33 officers per 1000 to 1.35 officers per 1000.
Tigard participates in the regional effort to provide safe and effective mass transit.
Provides job enrichment for Tigard Police Officers.
Accepts responsibility for Tigard's role in a Metro wide service.
The contract provides for full recovery of direct costs to the City including overhead.

Disadvantages: Tigard has to hire and train an additional officer.

The Police Department believes that the advantages of this TriMet partnership significantly outweigh the disadvantages.

OTHER ALTERNATIVES CONSIDERED

Do not sign the Intergovernmental Agreement with TriMet, thereby declining the opportunity to participate in the Transit Police program.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Public Safety, #4 – Police outreach – better communication with all citizens
Tigard Police Mission, Vision, and Goals Statement – Partnering with citizens and other departments

ATTACHMENT LIST

IGA between the City of Tigard and TriMet

FISCAL NOTES

TriMet will reimburse Tigard for all personal services costs (wage, benefits, overtime) plus 10% for overhead and will provide the assigned officer with the necessary materials to perform his/her job. Also, since the assigned officer will not be part of the Tigard patrol unit, the Tigard Police Department will need to hire an additional officer to "back-fill" this position. The estimated cost for this new officer for the remainder of FY 2004/05 is \$20,700. This IGA provides for full reimbursement of all wages and benefits to include overtime, as well as up to an additional 10% overhead cost for accounting and billing for the contracted officer. A budget amendment that will authorize the additional position and costs is also on the February 22 agenda and contingent upon the City Council's authorization of this IGA.

INTERGOVERNMENTAL AGREEMENT

This Agreement is among the Tri-County Metropolitan Transportation District of Oregon (TriMet), the City of Tigard (Tigard) and the City of Portland (Portland), pursuant to authority granted in ORS Chapter 190.

The purpose of this agreement is to provide one officer (1.0 FTE) to the TriMet Transit Police Division, which is operated and administered by the Portland Police Bureau under a separate contract between TriMet and Portland. TriMet, through Portland, will compensate Tigard for the services of the officer assigned to the Transit Police Division.

The parties agree as follows:

1. **TERM:** The term of this agreement is from March 1, 2005 to June 30, 2005, unless terminated sooner under the provisions hereof.
2. **RESPONSIBILITIES OF PARTIES:** See attached Exhibit 1.
3. **TERMINATION:** This agreement may be terminated as follows:
 - a. Any party may terminate this agreement for its convenience and without penalty upon thirty (30) days written notice of its intention to terminate.
 - b. If TriMet is unable to appropriate sufficient funds to pay Tigard for its services under this agreement, TriMet must notify Tigard and Portland and the agreement terminates as of the end of the last fiscal year for which such appropriations are available.
 - c. Any obligations arising prior to the date of termination survive the termination, including any obligation to defend and indemnify any other jurisdictions.

4. **INDEMNIFICATION:**

Portland and Tigard will be responsible for the work of the officers assigned to the TriMet Transit Police Division.

Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, Tigard shall indemnify, defend and hold harmless TriMet and Portland from and against all liability, loss, and costs arising out of or resulting from the acts of Tigard, its officers, employees, and agents in the performance of this agreement. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, TriMet shall indemnify, defend, and hold harmless Tigard and Portland from and against all liability, loss, and costs arising out of or resulting from the acts of TriMet, its officers, employees, and agents in the performance of this agreement. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, Portland shall indemnify, defend, and hold harmless Tigard and TriMet from and against all liability, loss, and costs arising out of or resulting from the acts of Portland, its officers, employees, and agents in the performance of this agreement.

5. **INSURANCE:** Each party shall be responsible for providing workers' compensation insurance as required by law. No party shall be required to provide or show proof of any other insurance coverage.

6. ADHERENCE TO LAW: Each party must comply with all federal, state, and local laws and ordinances applicable to this agreement.
7. ACCESS TO RECORDS: Each party must have access to the books, documents, and other records of the other parties related to this agreement for the purpose of examination, copying, and audit, unless otherwise limited by law.
8. SUBCONTRACTOR AND ASSIGNMENT: No party shall subcontract or assign any part of this agreement without the written consent of the other parties.
9. ENTIRE AGREEMENT: This agreement and Exhibits 1 and 2 constitute the entire agreement between the parties. This agreement may be modified or amended only by the written agreement of the parties.
10. ATTORNEY FEES: In the event a lawsuit is filed to obtain performance of any kind under this agreement, the prevailing party is entitled to additional sums as the court may award for reasonable attorney fees, all costs, and disbursements, including attorney fees, costs, and disbursements on appeal.
11. SEVERABILITY: The parties agree that, if any term of this agreement, is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms will not be affected.
12. NOTICES: The parties must send any notices, bills, invoices, reports, or other written communications required by this agreement through the United States Mail, first-class postage paid, or personally delivered to the addresses below:

TIGARD

13125 SW Hall Blvd
Tigard, OR 97223
Attn: Captain Mike Bell

Signature

Craig Prosser
Print

Interim City Manager
Title

Approved at to form:

Gary Firestone, City Attorney

TRIMET

4012 SE 17th
Portland, OR 97202
Attn: Robert T. Nelson

Signature

Print

Title

Legal Counsel

PORTLAND

Bureau of Police
1111 SW 2nd Avenue
Portland, OR 97204
Attn: Chief Crebs

Signature

Print

Title

By: _____
Mayor

City Attorney

EXHIBIT 1

INTERGOVERNMENTAL AGREEMENT BETWEEN TIGARD, THE CITY OF PORTLAND AND

THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON

1. SERVICE LEVEL

For the term of this contract, Tigard will provide one (1) full-time officer (FTE) for assignment to the Transit Police Division (hereinafter Division). On an annual basis, the parties will agree upon the level of police service including personnel, equipment, and related support, to be provided to the Division. Tigard personnel assigned to the Division will remain employees of Tigard and will not be considered employees or agents of TriMet or the City of Portland (Portland). For purposes of this agreement, the officer assigned to the Division will be referred to as assigned to the TriMet Transit Police Division.

2. OPERATIONS

- a. Deployment: The parties recognize that they have legitimate interests in the management and deployment of officers assigned to the Division. The parties will work together to ensure that the allocation and deployment of police personnel assigned to the Division shall be consistent with TriMet's System Security Plan.
- b. Specialty Assignment: The parties recognize the value of police specialty assignments and training. TriMet reserves the right, however, to limit the number of deputies/officers assigned to the Division who hold specialty status and require specialized training.
- c. Daily Operation: The Division's sergeants and command personnel will provide supervision of Tigard officers for the daily operation of the Division.
- d. General Orders, Standard Operation Procedures, and Testing: All officers assigned to the Division will remain subject to the General Orders and training requirements of Tigard. Additionally, all deputies/officers assigned to the Division will abide by the Division's Standard Operating Procedures.
- e. Selection and Assignment: The command personnel of Tigard, TriMet, and Portland will jointly select and assign deputies/officers to the Division. The relevant command personnel will make every effort to select the most qualified available deputy/officer making application for assignment to the Division.
- f. Agency Cooperation and Coordination:
 - (1) The parties will work closely and continuously communicate with each other to ensure that the resources, strategies, work force deployment, and initiatives of TriMet, Portland, and Tigard are coordinated and effective.
 - (2) The Commander, TriMet Transit Police Division, or his/her designee, will coordinate contact with the parties to insure that the resources, strategies, work force deployment, and initiatives of the Division and those of the respective law enforcement agencies are coordinated and effective.

- (3) Tigard agrees to work cooperatively in an effort to increase reporting of TriMet related incidents. Tigard agrees to provide to the Division TriMet coded reports, data, and records. TriMet agrees to make available to Tigard, through the Division, particular date reports, records, etc. that will assist in fulfilling the mission as outlined in this document.

g. Officer Seniority

Determination of deputy/officer seniority for purposes of making shift, vacation, holiday, and overtime assignments shall be according to the Memorandum of Agreement between Tigard, the Tigard Police Officers' Association, Portland and TriMet attached hereto as Exhibit 2.

3. REIMBURSEMENT OF COSTS

- a. Costs: Tigard must pay the salaries, overtime, insurance, retirement, and other benefits of its respective deputies/officers serving in the TriMet Transit Police Division. Tigard must bill the Portland Police Bureau, Fiscal Division, monthly for the salaries, overtime, insurance, retirement, other benefits and Indirect (overhead not to exceed 10%) charges incurred by Tigard to provide personnel. Billings will be sent to: PPB Fiscal Division, 1111 SW 2nd Avenue, Portland, OR 97204. Portland agrees to compensate Tigard within 30 days after receiving the bill.
- b. Amount: Before April 1st of each year of this agreement, Portland and Tigard must submit to TriMet a proposed annual budget for services under this contract for next fiscal year (July 1 through the following June 30). The parties will then agree on the compensation to be paid by TriMet for services to Portland and Tigard under this agreement. If the parties cannot agree on such compensation by April 1st of each year of this agreement or at anytime during the term of this agreement, any party may elect to terminate this agreement for its convenience and without penalty in accordance with the Termination provision in this agreement.

EXHIBIT 2

MEMORANDUM OF AGREEMENT BY AND BETWEEN THE CITY OF TIGARD, TRIMET, AND THE CITY OF PORTLAND

The parties to this agreement are the City of Tigard, the City of Portland and TriMet.

It is the intent of this agreement: (1) to recognize that the TriMet Transit Police Division (Division) is staffed by police officers from many jurisdictions, each covered by their respective collective bargaining agreements, but that shifts, days off, vacations and overtime need to be assigned in a fair and equitable manner; (2) to provide for assignment of shifts, days off, vacations and overtime by seniority; (3) to allow for the change of shift hours of operation and to re-allocated positions and days off within certain shifts to maintain an appropriate balance of field strength.

THE PARTIES AGREE THAT:

1. Current and future Tigard officers assigned to the Division will use their Tigard date of hire seniority as the means to select shifts, days off, vacations and overtime.
2. Current and future Tigard officers assigned to the Division will abide by the following:
3. Seniority shall be defined as the length of uninterrupted services by the officer in his/her agency within the officer's Civil Service classification following the officer's most recent appointment. Time spent in the Armed Forces, on military leaves of absence, other authorized leaves and time lost because of duty-connected disability shall be included in length of service. If an officer who has been promoted reverts to a position s/he formerly held, the officer's seniority shall be the sum of the seniority earned in the promotional class and in the class to which the officer reverts.
4. Subject to manpower needs and maintaining efficiency of the Division/Detail, seniority shall be the prime factor in the selection of shifts and days off provided the officer is otherwise qualified. Seniority shall govern in the selection of vacation and holidays.
5. In the case of voluntary transfer and/or assignment, the seniority of an officer shall apply immediately to the officer's choice concerning holidays and vacations. The transferring officer may not use seniority to bump another officer's shift or days off until 45 days from the date of the written request.
6. In case of involuntary transfer and/or assignment, the seniority of an officer shall apply immediately to the officer's choice concerning holidays and vacation. The transferring officer may not use seniority to bump another officer's shift or days off until 30 days from the date of the written request.
7. For the purposes of this Agreement, the phrase "Transferring Officer" shall refer to an officer desiring to change shifts, days off or assignments, or an officer who is involuntarily transferred.
8. The Division shall prepare a form to be used by officers desiring to transfer from one shift, assignment, or day off configuration to another within the same reporting unit. For the purposes of this Agreement, this form shall be referred to as the "Transfer Request Form." The Transfer Request Form

shall contain a place for transferring officers to indicate their preferences with respect to shifts and days off.

9. A transferring officer may complete a Transfer Request Form at any time. If the officer is seeking or anticipating a transfer, the officer shall file the Transfer Request Form with a Division Lieutenant. If the officer is seeking a change in days off or shifts which do not involve a transfer between reporting units, the Transfer Request Form shall be filed with the officer's shift commander. The Division will forward a copy of the Transfer Request Form to the location of the anticipated transfer.

10. In the event of a change in days off or shifts that do not involve a change in reporting units, the time frames referred to in Section 5 and 6 of this Agreement shall begin to run when the transferring officer submits the Transfer Request Form.

11. When the Division knows that an officer's preferences as indicated on a Transfer Request Form will result in the displacement of the shift or days off of another officer (referred to herein as the Transferred Officer), the Division shall notify the Transferred Officer as soon as possible of the fact that he or she may be bumped.

12. The Division shall accommodate the shift and/or days off preferences of transferring officers on a faster time schedule than that contained in Sections 5 and 6 of this Agreement, if, in the Division's judgment, it is operationally sound to do so, provided that no other affected officer is bumped from his or her days off or shift who objects to the accommodation.

13. An officer may exercise seniority to bump another officer for shift and days off only once in ninety (90) days.

14. **Vacations.** Employees shall be allowed to select two vacation periods on the basis of seniority. Each vacation period must be of a minimum duration of one day. Vacation time shall be scheduled by the Division with due consideration being given to request from officers which shall be determined among officers of equal rank by seniority; provided, however, that each officer shall be permitted to exercise the right of seniority only once each year. The sign-up deadline for the exercise of seniority in the selection of vacations shall be March 15 for the calendar year running from April 15 through April 14 of the following year.

15. **Holiday Assignment.** Where the shift strength is reduced or increased on holidays, consistent with the needs of the Division, assignments shall be offered to the most senior officer. Except for an emergency, the Division shall provide a minimum of ten (10) days' notice of any deviation from normal shift strength so that officers may plan the use of their time.

A. Where shift strength is reduced, the most senior officer scheduled for duty on the shift shall be offered the option of working or not. Where shift strength is increased, the most senior officer on the shift shall be offered the option of working or not.

B. For purposes of this section, New Year's Eve and Christmas Eve shall be treated as holidays.

16. **Seniority for Vacation Purposes upon Transfer.** If an officer is involuntarily transferred, the Division shall honor the officer's pre-selected vacation times, and shall not disrupt the pre-selected vacation time for other officers in the division to which the officer is involuntarily transferred. If an officer accepts a voluntary transfer, the Division shall attempt to accommodate, to the extent possible, the officer's pre-selected vacation times.

17. **Shift Overtime.** Where the overtime is not directly related to activities begun by an officer during the officer's regular shift, and where the planned overtime is anticipated to be four (4) hours or more in duration, the overtime shall be offered, in the order of seniority, to officers in the Division. Once each eligible officer has had the opportunity to work shift overtime, officers may once again use their seniority to work shift overtime as described above, and the seniority list shall rotate in the same fashion thereafter. The Division shall maintain a list in each reporting unit upon which officers must place their names indicating a willingness to work shift overtime. If an officer is incorrectly passed over for shift overtime, the officer shall be allowed to work a makeup overtime assignment within the next two pay periods following the discovery of the error. The officer and the Division shall mutually agree upon the makeup overtime assignment, which shall not displace another officer's already-selected overtime assignment. An officer who has been incorrectly passed over shall not be otherwise entitled to compensation for the missed overtime.

18. An officer will normally be given adequate advance notice of any change in the officer's regular hours of work, except where an emergency (an emergency is defined as an unforeseen event affecting the Division's ability to perform its mission) exists. Notice given less than forty-eight (48) hours (or seventy-two [72] hours under the Four-Ten Plan) before the officer is to begin work under the changed schedule entitles the officer to compensation at the overtime rate for those hours not exceeding eight (8) hours that are earlier, later, or different from the hours the officer last worked in a work day. A police officer is not entitled to compensation under the overtime rate if the officer is otherwise entitled to compensation under the same hours of work, or if shift changes are the result of a voluntary transfer or promotion.

All other terms and conditions of any current Collective Bargaining Agreement between the Tigard Police Officer's Association and the City of Tigard shall remain in effect as to other issues not addressed by this MOA.

IT IS AGREED BY:

Reviewed:

Gary Firestone, City Attorney

City of Tigard: Craig Prosser, Interim City Manager

APPROVED AS TO FORM:

City of Portland

City Attorney

TriMet, Executive Director of Operations

AGENDA ITEM # 6
FOR AGENDA OF 02/22/05

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE A Resolution Approving Budget Amendment #8 to the FY 2004-05 Budget to Add a Full-time Police Officer Position and Increase Appropriations for Funding of this Position.

PREPARED BY: Michelle Wareing DEPT HEAD OK [Signature] CITY MGR OK cl

ISSUE BEFORE THE COUNCIL

Should the City Council approve Budget Amendment #8 to the FY 2004-05 Adopted Budget to add a full-time police officer position and increase appropriations for funding of this position?

STAFF RECOMMENDATION

Staff recommends approval of Budget Amendment #8.

INFORMATION SUMMARY

TriMet contracts with the Portland Police Bureau, Multnomah and Washington Counties, cities of Beaverton, Gresham, and Milwaukie for police services. These officers are supervised by the Portland Police Bureau and make-up the Transit Police Division, which maintains the safety and security of the transit system by enforcing applicable ordinances and state laws throughout the TriMet service area. Tigard City Council approved and signed an Intergovernmental Agreement with TriMet on February 22, 2005 to assign a full-time officer to the Transit Police Division.

TriMet will pay all personal services costs plus 10% overhead for the Tigard officer assigned to the Transit Police Division. The City will bill the Portland Police Bureau (managing agency of the Transit Police) each month. TriMet will also provide the necessary materials and any special training for the officer to perform his/her job while at the Transit Police Division. Tigard will be responsible for providing a uniform, training as required by Tigard, and other miscellaneous items to the assigned officer. Since the officer will not be available to work in Tigard's patrol unit, an additional officer will need to be hired to "back-fill" the assigned officer position.

This budget amendment will increase the authorized police officer positions in the Police Operations Division by one position. Also, it will transfer funds from the General Fund Contingency to the Police Operations budget. A contingency transfer is needed even though Tigard will be reimbursed by TriMet because to recognize new revenues and appropriate them requires a supplemental budget, which is a very involved process. The reimbursement and overhead payments received from TriMet will be receipted into the General Fund and will become part of the fund balance, which will be rolled over into FY 2005-06.

OTHER ALTERNATIVES CONSIDERED

Do not approve resolution. If the IGA with TriMet is approved, but the budget amendment is not, the net result would be a reduction in the number of police officers available to patrol Tigard.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Public Safety, #4 – Police outreach – better communication with all citizens.

Tigard Police Mission, Vision, and Goals Statement – Partnering with citizens and other departments

ATTACHMENT LIST

Resolution including Attachment A

FISCAL NOTES

This action will transfer a total of \$20,700 from the General Fund Contingency to Police Operations budget, Community Services Program, for the funding of the additional Police Officer position for the remaining four months of FY 2004/05.

CITY OF TIGARD, OREGON

RESOLUTION NO. 05-_____

A RESOLUTION APPROVING BUDGET AMENDMENT #8 TO THE FY 2004-05 BUDGET TO ADD A FULL-TIME POLICE OFFICER POSITION AND INCREASE APPROPRIATIONS FOR FUNDING OF THIS POSITION.

WHEREAS, the City Council approved an Intergovernmental Agreement with TriMet to assign a full-time Tigard Police Officer to the TriMet Transit Police Division; and

WHEREAS, the police officer will not be available to work in Tigard's patrol unit; and

WHEREAS, the City Council does not want to reduce the number of police officers available to patrol in Tigard; and

WHEREAS, it is necessary to increase the authorized number of full-time equivalent (FTE) police officer positions within the Police Operations Division from 34 to 35 to maintain the number of police officers patrolling in Tigard; and

WHEREAS, it is necessary to amend the FY 2004-05 Budget to increase appropriations to fund this additional position.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The authorized number of full-time equivalent police officer positions in the Police Operations Division is increased from 34 to 35.

SECTION 2: The FY 2004-05 Budget of the City of Tigard is hereby amended as shown in Attachment A to this resolution to increase appropriations in the Police Operations Division, Community Services Program, in the amount of \$20,700 and to decrease General Fund Contingency by the same amount.

SECTION 3: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2005.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

Attachment A
FY 2004-05
Budget Amendment # 8

FY 2004-05 Revised Budget	Budget Amendment # 8	Revised Revised Budget
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General Fund

Resources

Beginning Fund Balance	\$7,751,279		\$7,751,279
Property Taxes	9,398,805		9,398,805
Grants	237,485		237,485
Interagency Revenues	2,435,609		2,435,609
Development Fees & Charges	372,294		372,294
Utility Fees and Charges	0		0
Miscellaneous Fees and Charges	184,160		184,160
Fines and Forfeitures	592,840		592,840
Franchise Fees and Business Tax	2,944,042		2,944,042
Interest Earnings	172,500		172,500
Bond/Note Proceeds	0		0
Other Revenues	68,200		68,200
Transfers In from Other Funds	2,145,314		2,145,314
Total	\$26,302,528	\$0	\$26,302,528

Requirements

Community Service Program	\$10,779,702	\$20,700	\$10,800,402
Public Works Program	2,446,197		2,446,197
Development Services Program	2,554,196		2,554,196
Policy & Administration Program	344,706		344,706
General Government	0		0
Program Expenditures Total	\$16,124,801	\$20,700	\$16,145,501
Debt Service	\$0		\$0
Capital Improvements	\$0		\$0
Transfers to Other Funds	\$3,758,056		\$3,758,056
Contingency	\$531,887	(\$20,700)	\$511,187
Total Requirements	\$20,414,744	\$0	\$20,414,744
Ending Fund Balance	5,887,784		5,887,784
Grand Total	\$26,302,528	\$0	\$26,302,528

AGENDA ITEM # 7
FOR AGENDA OF February 22, 2005

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Discuss a Proposed Resolution to Support Collaboration with Washington County Jurisdictions Regarding Proposed Changes to Goal 14 (Urbanization) and the Urban Growth Boundary Administrative Rules, and to Support Local Control Over the Land-Use Process

PREPARED BY: Jim Hendryx DEPT HEAD OK [Signature] CITY MGR OK CP

ISSUE BEFORE THE COUNCIL

Discuss a proposed resolution supporting region-wide collaborative efforts to work on Goal 14 Urbanization and Urban Growth Boundary administrative rules and supporting region-wide efforts to limit Metro's authority to adopt local land use controls.

STAFF RECOMMENDATION

Discuss the proposed resolution and direct staff to make any revisions so Council may consider the final draft at an upcoming Council meeting.

INFORMATION SUMMARY

Council members received for review Resolution 4301-04 from the City of Tualatin, voicing local concerns in defining Metro's role in balancing regional and local issues, including the Urban Growth Boundary (UGB) expansion. The Council also, during its recent goal-setting meetings, decided it would seek changes at Metro to free Tigard's Comprehensive Plan process to respond to citizen's concerns and to initiate discussion with Metro regarding flexibility with density requirements. The draft resolution states that the City of Tigard:

1. Supports the region-wide collaborative efforts to work on Goal 14 Urbanization and Urban Growth Boundary administrative rules in order to address transition of urban uses and services in unincorporated areas, including annexation before development.
2. Supports region-wide efforts to limit Metro's authority to adopt local land-use controls to assure that the Tigard Comprehensive Plan reflects our community's sense of place.

OTHER ALTERNATIVES CONSIDERED

1. Amend the draft resolution.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Goal 1: Growth Management: Growth will be managed to protect the character and livability of established areas, protect the natural environment and provide open space throughout the community

ATTACHMENT LIST

1. City of Tualatin Resolution 4301-04
2. City of Tigard – Draft Resolution

FISCAL NOTES

N/A

RESOLUTION NO. 4301-04

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUALATIN,
OREGON DESCRIBING PROPOSED CHANGES TO THE URBAN GROWTH
BOUNDARY EXPANSION PROCESS

WHEREAS Tualatin is a city in the territory of the Metropolitan Services District (known as "Metro"); and

WHEREAS cities in the Metro region have their urban boundaries established by Metro; and

WHEREAS the Metro Policy Advisory Committee (MPAC) is a Metro committee charged with providing a voice and input for Metro cities on Urban Growth Boundary (UGB) expansion issues; and

WHEREAS there has been mounting frustration and concern in Tualatin in particular, and many cities in general that the UGB expansion process does not balance local needs and concerns with regional issues, and that soil classification predominates in Metro led UGB expansion decisions; and

WHEREAS the City of Tualatin proposes the following seven principles of legislative change be adopted and incorporated in appropriate sections of Oregon Revised Statutes, Oregon Administrative Rules and Metro drafted rules and guidelines concerning UGB expansion.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN,
OREGON, that:

Section 1. Additions to the Urban Growth Boundary should not be determined solely by soils classifications, with exception lands always being the first to be considered for addition. Metro should be allowed to consider other factors, such as preexisting development in the area, the wishes of the adjacent cities that would have to serve the area, and other appropriate local concerns.

Section 2. The frequency for reviewing whether the land supply is sufficient for development purposes should be changed from 5 years to no more often than every 7-10 years.

Section 3. The Legislature should enact or amend a statute to make it clear that Metro cannot add land to the Urban Growth Boundary of a city without the city agreeing to that addition.

Section 4. The Legislature should enact or amend a statute clarifying that cities retain their zoning authority, separate from a UGB expansion. Metro cannot add land to a city's Urban Growth Boundary and specify the zoning type that the City would have to impose on that land.


Section 5. The Metro Council election and representation process should be changed from districts to at-large to ensure a broader-based representation process.

Section 6. The Legislature should enact or amend a statute to require lands added to the Urban Growth Boundary by Metro concurrently identify a viable transportation system to support the added land and the existing city transportation system in coordination with a city.

Section 7. The Legislature should enact or amend a statute to require lands added to an Urban Growth Boundary by Metro concurrently have allocated funding for transportation infrastructure development in the added land and the existing city transportation system.

INTRODUCED AND ADOPTED this 25th day of October, 2004.

CITY OF TUALATIN, OREGON

By 
Mayor

ATTEST:

By 
City Recorder

CITY OF TIGARD, OREGON
RESOLUTION NO. 05-

A RESOLUTION OF THE TIGARD CITY COUNCIL TO SUPPORT COLLABORATION WITH OUR WASHINGTON COUNTY NEIGHBORS REGARDING PROPOSED CHANGES TO GOAL 14 (URBANIZATION) AND THE URBAN GROWTH BOUNDARY EXPANSION ADMINISTRATIVE RULES, AND TO SUPPORT LOCAL CONTROL OVER THE LAND-USE PROCESS.

WHEREAS, as an incorporated city in the state of Oregon, the City of Tigard is subject to state land-use planning laws and must have an adopted Comprehensive Plan that results from broad citizen involvement that meets mandatory state standards, which include 19 statewide planning goals; and

WHEREAS, as an incorporated city in the Portland metropolitan region, the City of Tigard also is located within the service territory of Metro, which has the primary responsibility for regional land-use and transportation planning; and

WHEREAS, in October 2004, the City of Tualatin passed Resolution 4301-04 which voices local concerns in defining Metro's role in balancing regional and local issues, including the Urban Growth Boundary (UGB) expansion; and

WHEREAS, the City of Tigard recognizes that while regional efforts have focused on establishing and amending the Urban Growth Boundary (UGB), critical aspects of implementation have been overlooked, including the process of converting urbanizable land to urban land, the timing of conversion, and the availability of public facilities, services and patterns; and

WHEREAS, the City of Tigard feels strongly that implementation must be addressed in a cohesive and comprehensive manner – including annexation – prior to development, or areas will continue to urbanize without adequate services, creating additional costs and administrative burdens to jurisdictions providing services and creating unincorporated urbanized areas which are in direct opposition to Goal 14; and

WHEREAS, the City of Tigard recognizes that there have been efforts to clarify Metro's authority under the Metro Charter based on the Oregon planning program principle which emphasizes citizen involvement and direction and local land use controls; any directive by Metro to address local plan and zoning content is inconsistent with state law and prevents the exercise of balanced legislative judgment by a local council.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The City of Tigard supports region-wide collaborative efforts to work on Goal 14 Urbanization and Urban Growth Boundary administrative rules in order to address transition of urban uses and services in unincorporated areas, including annexation before development.

SECTION 2: To assure that the Tigard Comprehensive Plan reflects our community's sense of place, the City of Tigard supports region-wide efforts to limit Metro's authority to adopt local land-use controls.

SECTION 3: This resolution takes effect immediately.

PASSED: This _____ day of _____, 2005.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

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AGENDA ITEM # 8
FOR AGENDA OF February 22, 2005

CITY OF TIGARD, OREGON
LOCAL CONTRACT REVIEW BOARD (LCRB) AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Conduct a Public Hearing of City Council/LCRB to Amend the TMC to Reflect Changes in the Public Contracting Rules and Declare an Emergency.

PREPARED BY: Joe Barrett DEPT HEAD OK: [Signature] CITY MGR OK: [Signature]

ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Shall the Tigard Local Contract Review Board approve an ordinance providing for the transition to new Public Contracting Rules, revise certain provisions in the Tigard Municipal Code relating to contracting authority, authorize the adoption of revised Public Contracting Rules by resolution, and declare a state of emergency to ensure any revised Public Contracting Rules will be in effect in the appropriate time frame.

STAFF RECOMMENDATION

Approve the ordinance that will provide for the transition to a new set of Public Contracting Rules required by state law, will authorize the adoption of new Rules by resolution, and will revise certain provisions to the Tigard Municipal Code relating to the contracting authority. The ordinance also declares a state of emergency allowing the new Public Contracting Rules to go into immediate effect thus allowing the City to meet the time frame for new Public Contracting Rules required under Oregon Revised Statute (ORS) 279. An accompanying agenda item will adopt new Public Contracting Rules by resolution.

INFORMATION SUMMARY

The City of Tigard's current Public Contracting Rules (Rules) were readopted on November 23, 1999 through Ordinance 99-30. Since 1999, there have been amendments to the Rules via Ordinances Nos. 01-02 and 02-21. Due to a rewrite of ORS 279, these Rules will no longer be valid as of March 1, 2005.

Due to the rewrite of ORS 279, all governmental agencies in the State of Oregon that do not adopt new Public Contracting Rules before March 1, 2005 will fall under the Attorney General's Model Public Contracting Rules. This ordinance will provide for an orderly transition from existing rules to the new rules, freeing the City to approve rules that will be valid on March 1, 2005.

Along these same lines, staff is asking for the Tigard Municipal Code (TMC) to be revised to reflect changes that will be in place on March 1, 2005. In TMC Section 2.46, it is twice referenced that contracts/projects exceeding \$25,000 require LCRB approval. Under the proposed rules that staff will present to the City Council on February 22, 2005, the exemption from a formal competitive bidding or proposal process will be raised to \$50,000 for general goods and services and \$75,000 for most public improvement projects. If required to follow the Attorney General's Model Rules, these limits would be raised to \$150,000 for general goods and services and \$100,000 for most public improvement projects. In response to this, staff is recommending that the dollar authority for staff to

obligate the City be raised to match the exemption amounts. The ordinance provides for the following changes to TMC Section 2.46:

2.46.110 - Delegation Of Authority To Obligate The City

- (c) The public contract, personal services contract or any other type of contract let by the City does not exceed ~~\$25,000~~ \$50,000 for contracts other than public improvement contracts and \$75,000 for public improvement contracts.

2.46.140 - Limitation To Expenditures

- (b) The expenditure shall not be a component of a project with a total cost in excess of ~~\$25,000~~ \$50,000 for public improvement contracts and \$75,000 for public improvement contracts, except in the case of a project which involves a personal services contract and a public contract. If a project involves a personal service contract and a public contract, the two contracts shall be considered separate projects.

These changes will provide the flexibility and simplicity of having the dollar level requiring LCRB approval directly correlate to the LCRB approved formal Public Contracting Rules threshold. As the March 1, 2005 effective date required under ORS 279 is quickly approaching, staff also asks that the LCRB declare a state of emergency regarding this action thus allowing the changes to go into effect on March 1, 2005.

OTHER ALTERNATIVES CONSIDERED

Do not approve the ordinance repealing the City's current Public Contracting Rules which will expire on March 1, 2005, as stated under ORS 279 and direct the City to follow the Attorney General's Model Public Contracting Rules beginning March 1, 2005.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

1. Ordinance repealing Ordinance No. 99-30, as amended, revising certain provisions in the Tigard Municipal Code related to the Local Contract Review Board, and declaring an emergency.

FISCAL NOTES

N/A

CITY OF TIGARD, OREGON

ORDINANCE NO. 05-_____

AN ORDINANCE AMENDING THE TMC TO REFLECT CHANGES IN THE PUBLIC CONTRACTING RULES AND DECLARE AN EMERGENCY.

WHEREAS, The City Council, acting as the Local Contract Review Board approved Ordinance 99-30 on November 23, 1999, which established Public Contracting Rules for the City; and

WHEREAS, Due to new changes in Oregon Revised Statue 279 these Public Contracting Rules, as amended, will no longer be valid for contracts entered into on or after March 1, 2005; and

WHEREAS, The City will establish new Public Contract Rules through resolution prior to March 1, 2005; and

WHEREAS, The Tigard Municipal Code Section 2.46 relating to the Local Contract Review Board was last updated in 2001; and

WHEREAS, The City desires to update and revise provision relating to the Local Contract Review Board; and

WHEREAS, Due to the timing established under Oregon Revised Statute 279, a state of emergency exists in order for the City to have the proper rules established by March 1, 2005.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Public Contracting Rules established by Ordinance 99-03 and amended by Ordinances Nos. 01-02 and 02-21 shall remain in effect for contracts for which the contracting process is initiated prior to March 1, 2005 but shall not apply to contracts entered into on or after that date. Those rules shall cease to have effect upon full completion of all contracts entered into under those rules.

SECTION 2: Tigard Municipal Code 2.46 is amended as follows:

2.46.110 - Delegation Of Authority To Obligate The City

- (c) The public contract, personal services contract or any other type of contract let by the City does not exceed ~~\$25,000~~ \$50,000 for contracts other than public improvement contracts and \$75,000 for public improvement contracts..

2.46.140 - Limitation To Expenditures

(b) The expenditure shall not be a component of a project with a total cost in excess of ~~\$25,000~~ \$50,000 for contracts other than public improvement contracts and \$75,000 for public improvement contracts, except in the case of a project which involves a personal services contract and a public contract. If a project involves a personal service contract and a public contract, the two contracts shall be considered separate projects.

SECTION 3: The Local Contract Review Board may adopt, repeal and amend regulations relating to public contracting by resolution.

SECTION 4: This ordinance, being necessary for the peace, health and safety of the City, shall be effective on March 1, 2005 after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this ____ day of _____, 2005.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this ____ day of _____, 2005.

Craig Dirksen, Mayor

Approved as to form:

City Attorney

Date

CITY OF TIGARD, OREGON
LOCAL CONTRACT REVIEW BOARD (LCRB) AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Conduct a Public Hearing to Consider Revised Public Contracting Rules, Related Findings, and Revised Purchasing and Contracting Manual.

PREPARED BY: Joe Barrett DEPT HEAD OK: [Signature] CITY MGR OK: [Signature]

ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Shall the Tigard Local Contract Review Board approve by resolution, revised Public Contracting Rules, the supporting findings for the revised Public Contracting Rules, and the establishment of a revised Purchasing and Contracting Manual?

STAFF RECOMMENDATION

Approve the resolution revising the City's Public Contracting Rules and the supporting findings, and revising the City's Purchasing and Contracting Manual.

INFORMATION SUMMARY

On March 1, 2005, a revised Oregon Revised Statute (ORS) 279 will go into effect. Due to the revised ORS 279, all governmental agencies in the State of Oregon need to either adopt new Public Contracting Rules (Rules) before March 1, 2005 (as first authorized in House Bill 2024, approved by the Oregon Legislature) or they will fall under the Attorney General's Model Public Contracting Rules. In response, staff, working closely with the City Attorney's Office and the Cities of Milwaukie and West Linn, have revised the City's Rules to be in compliance with the revised ORS 279.

An ordinance to be presented to the Local Contract Review Board (LCRB) on February 22, 2005 will provide for the orderly transition from the existing Rules to the revised Rules. Staff recommends that the LCRB approve the resolution establishing the City's revised Rules along with the attached supporting findings allowing the City to have its own Rules in place by the required March 1, 2005 deadline.

Along these same lines, the City's Purchasing and Contracting Manual (Manual), used by staff as a guide to the purchasing and contracting processes, will need to be revised to reflect the changes to the Rules. Staff recommends that the LCRB approve the establishment of a revised Manual and authorize staff to make the necessary changes to the Manual in order to bring it in line with the revised Rules.

The Public Contracting Rules themselves make up a large document of eighty pages. Due to the size of this document, it is not attached to the staff report. Copies of the Rules may be requested by contacting Joe Barrett at (503) 639-4171, ext. 2477.

OTHER ALTERNATIVES CONSIDERED

Do not approve the revised Public Contracting Rules and supporting findings and direct the City to follow the Attorney General's Model Public Contracting Rules beginning March 1, 2005.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

- 1 Resolution adopting revised Public Contracting Rules, findings supporting the revised Public Contracting Rules, and establishing a revised Purchasing and Contracting manual.
- 2 Supporting Findings.

FISCAL NOTES

N/A

LOCAL CONTRACT REVIEW BOARD
CITY OF TIGARD, OREGON

RESOLUTION NO. 05-_____

A RESOLUTION ADOPTING REVISED PUBLIC CONTRACTING RULES, RELATED FINDINGS, AND REVISED PURCHASING AND CONTRACTING MANUAL.

WHEREAS, the City of Tigard has previously adopted and used rules applicable to public contracting, including rules covering procedure and rules governing exemptions; and

WHEREAS, the legislature has adopted new statutes applicable to public contracting and revised rules have been drafted to comply with the new statutes; and

WHEREAS, the City Council determines that the revised draft rules better suit the needs of the City than the proposed Attorney General model rules; and

WHEREAS, the City of Tigard finds that there will be a future need for the City to enter into public contracts and that it is therefore appropriate for the City to adopt Public Contracting Rules, consistent with the state Public Contracting Code; and

WHEREAS, the City of Tigard's Purchasing and Contracting Manual will be revised to meet the requirements established under the revised Public Contracting Rules.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The City Council, as the Local Contract Review Board hereby adopts rules attached as Exhibit A pursuant to the authority granted the Board by Tigard Municipal Code Section 2.46. These rules shall apply to all contracting, purchasing, and disposing of surplus personal property by the City of Tigard.

SECTION 2: The Local Contract Review Board adopts the findings in support of exemptions included in the attached Exhibit B.

SECTION 3: The model rules adopted or to be adopted by the Attorney General do not apply to contracting for the City of Tigard.

SECTION 4: The City Council, acting as the Local Contract Review Board, hereby establishes a revised Purchasing and Contracts Manual reflecting the new Public Contracting Rules.

SECTION 5 This resolution takes effect immediately upon adoption and the rules adopted under Section 1 shall be effective as to contracts that have not been advertised or entered into as of March 1, 2005. However, the public contracting rules in existence prior to this resolution shall remain in effect as to any contract entered into prior to March 1, 2005 or for which an invitation to bid or request for proposal is or has been advertised prior to March 1, 2005.

PASSED: This _____ day of _____ 2005.

Local Contract Review Board Chair – City of Tigard

ATTEST:

City Recorder - City of Tigard

FINDINGS IN SUPPORT OF EXEMPTIONS TO COMPETITIVE BIDDING OR PROPOSALS

The Local Contract Review Board of the City of Tigard adopts the following findings in support of exemptions to competitive bidding/proposal requirements.

Contracts Under Certain Dollar Amounts

1. The City incurs costs in awarding contracts under a formal competitive bidding or formal competitive proposal process.
2. While competitive bidding or competitive proposals can result in cost savings for large projects, the cost of the process can exceed the cost savings for smaller contracts.
3. State law creates exemptions for contracts under specified dollar amounts, and the City's exemption implements state law rather than creating a new or special exemption.
4. The rules require an informal competitive process (solicitation of quotes) in most situations, assuring competition. Even when a direct appointment is possible, the City cannot use a higher priced source if a lower priced source is known to be available. The rule against fragmentation of contracts prevents misuse of this exemption.
5. The requirement to obtain at least three quotes for intermediate contracts discourages favoritism by requiring the City to check with several sources.
6. It is unlikely that this exemption will encourage favoritism or diminish competition because it still provides for competition in most circumstances and requires the City to consider alternate sources.
7. The exemption will lead to cost savings by avoiding the cost of a formal process when that cost would outweigh any likely cost savings.
8. The exemption is in the public interest because it allows the City to reduce internal costs while controlling contract expenditures. This could not be achieved otherwise.

Price Regulated Items

9. If prices are regulated, a competitive process would not result in a lower-cost contract and the costs of the process would increase the City's overall costs.
10. Price-regulated items are typically available only from a single or limited number of sources, so exempting price-regulated items is unlikely to encourage favoritism.
11. The exemption is in the public interest because it results in cost savings for the City that could not be achieved without the exemption.

Library Periodicals

12. The purchase of most library periodicals is within the small contract dollar amount.
13. A substantial amount of market competition exists for periodicals, which results in competitive prices in the market.
14. The costs of a formal competitive process are greater than the amount of any likely savings from a competitive process.
15. The prohibition on use of higher priced sources when lower priced sources are known to be available discourages favoritism.

Advertising Contracts

16. Most entities that provide a forum for advertisers have set prices that cannot be negotiated.
17. The City has legal requirements for advertising public notices that can only be met by a small number of sources and all possible sources can be contacted without the need for an invitation to bid or request for proposals.
18. The correct advertising medium is important for the success of any advertising, so the specific medium needs to be selected based on considerations that are difficult to quantify. Therefore, selecting advertising media by bid is inappropriate and selecting by proposals may also result in a proliferation of proposals that do not meet the City's needs.
19. Advertising often must be placed on a short time schedule that does not permit the use of a formal competitive process.
20. The costs of a formal competitive process would likely be greater than the savings resulting from using that type of process to place advertising.
21. This exemption will not encourage favoritism because the City is still able to use informal processes to compare media and choose the best outcome for the City.
22. The exemption is in the public interest because it will result in cost savings to the City without encouraging favoritism and those purposes could not be met with existing rules.

Equipment Maintenance Repair and Overhaul

23. It is often impossible to determine the cost of equipment repair or overhaul without testing the equipment. It is not cost effective to have one contractor test the equipment and another perform the repairs.
24. Equipment repair often is needed to be performed without delay and in less time than a

competitive process would take.

25. The only way to have a competitive process for equipment repair or overhaul, other than by creating price agreements, would be to have a separate entity test the equipment to determine what is wrong with the equipment.
26. Without knowing the extent of repairs needed, competition is not possible because different entities could quote only their hourly rates, with no prediction as to the amount of time the repairs would take.
27. The exemption is unlikely to encourage favoritism because it is to be used only in rare occasions where the City does not have established price agreements, reached by a competitive process without favoritism.
28. This exemption serves the public interest by providing a simple process for obtaining equipment repair when needed.
29. The exemption for maintenance does not apply to routine or scheduled maintenance, unless there is only one entity capable of providing the service.

Purchases Under Established Price Agreements

30. Purchases under existing price agreements are unlikely to encourage favoritism or diminish competition because they are based on price agreements entered into after an open competitive process.
31. This exemption furthers the public interest by ensuring that price agreements will function properly and the same results would not be achievable if this exemption were not granted.

Gasoline, Diesel Fuel, Heating Oil, Lubricants and Asphalt

32. The exemption encourages competition and discourages favoritism by requiring an informal competitive process and requiring the City to use the least expensive source of those providing quotes.
33. The purchases under this exemption are likely to be at levels that qualify as small or intermediate contracts and the process is similar to the process required for intermediate contracts. The exemption is provided because over a period of time the total dollar amount of goods purchased from a single source may exceed the dollar maximum for intermediate contracts. The exemption is justified because each individual contract will be entered into on a competitive basis.
34. This exception is in the public interest because it allows the City to reduce costs while maintaining competition. The same result could not be achieved within existing rules because a costly formal process might otherwise be required.

Investment Contracts

35. Investment of City funds is closely regulated by state statutes.
36. Protecting the City's financial resources is in the public interest and awarding investment contracts to low bidders creates a risk of the security of the City's funds. The City needs to have a relationship of trust with those
37. The exemption for investment contracts or contracts to borrow funds is not likely to restrict competition or encourage favoritism because the City will investigate a range of potential contractors to assure the security of the City's funds.
38. The exception is in the public interest because it protects the City's financial resources in a way that could not be achieved without the exception.

Insurance Contracts

39. This exception provides for a competitive process for appointing agents of record or obtaining specific insurance, although the process does not necessarily conform to the standard RFP or ITB process. The competitive nature of the process promotes competition and does not encourage favoritism. The public interest would not be served by reliance on other regulations because of the specific nature of insurance contracts.

Employee Benefit Insurance

40. The Public Contracting Code creates an exemption for employee benefits contracts and the City's regulations implement that exemption.

Office Copier Purchases

41. This exemption requires a comparison of products and prices and so is a competitive process.
42. The exception is not likely to discourage competition or encourage favoritism because it does require the City to compare and choose the best combination of goods and price. It also results in a cost savings by being a less costly process than a formal competitive bidding or proposal process.
43. The exemption is in the public interest because it allows the City to reduce procedural costs while maintaining competition, and other regulations do not provide the same combination of cost savings and competitive process.

Single Seller of Product or Service

44. In some cases, there is only one possible supplier of the goods or services needed by the

City. If there is only one supplied, a competitive process would be both unnecessary and costly.

45. This exception does not discourage competition, it simply recognizes that in some situations competition does not exist and that having a competitive process would not result in competition. It also does not encourage favoritism because no one would be disfavored by choosing the only possible source. The regulation contains sufficient safeguards to assure that it will be used only when other sources are not available.
46. The exception is in the public interest because it results in cost savings that would not be possible if the exception did not exist.

Contract Amendments

47. At times the City's needs change during the course of a contract and more goods, services, or work is needed to meet the City's needs. It would not be cost-effective to require a new contracting process for additional work closely related to an existing contract.
48. This exemption contains limitations to prevent abuse and to limit the extent of contract amendments. These limitations discourage favoritism by requiring a new competitive process for major amendments.
49. The exemption does not discourage competition because it applies only when the existing contract was awarded by a competitive process.
50. The exemption is in the public interest because it saves the cost of a competitive process to make minor amendments to an existing contract.

Affirmative Action Contracts

51. This exemption implements an exemption created by the Public Contracting Code.

Purchases of Contract by Other Public Agencies

52. Contracts by public agencies often allow other public agencies to make purchases on the same terms.
53. This exemption promotes competition and does not encourage favoritism because it may be used only if the original contract was awarded after a competitive process.
54. The exemption is in the public interest because it allows the City to take advantage of other competitive processes and avoid duplication of costly processes.
55. The exemption is in the public interest because it results in cost savings while maintaining competition. The same results could not be achieved without this exemption.

Oil or Hazardous Material Removal

- 56. This exemption is limited to situations in which the City must comply with a DEQ order. The exemption is needed to ensure compliance with environmental laws and protection of the environment in a timely manner and applies only if a competitive process cannot be completed in time to comply with the DEQ order.
- 57. The exception promotes competition by requiring the City to use an informal competitive process by obtaining informal solicitations or quotes from potential suppliers.
- 58. This exemption is in the public interest and the public interest in environmental cleanup would not be served if this exemption were not adopted.

Contracts With Qualified Non-Profit Agencies

- 59. This exemption implements an exemption required by state law.

Ammunition

- 60. The City uses specialized ammunition, including special training ammunition. The ammunition meeting the City's requirements is often available only for short time periods, insufficient to allow a competitive process.
- 61. The general requirement to attempt to find the lowest price goods or services will ensure that the City does not add to the City's costs. Providing this exemption will give the City the flexibility to purchase ammunition when available and needed. Not providing this exemption could endanger public safety.
- 62. The public interest is served by this exemption because it allows the City to ensure that its police officers are adequately armed and trained.

Public Improvement Contracts Involving Design or Construction Management

- 63. This exemption allows a competitive proposal process to be used rather than a competitive bid process for public improvements under some circumstances.
- 64. The exemption promotes competition and discourages favoritism by requiring a competitive process.
- 65. The exemption recognizes that under some circumstances, the public interest is served by considering quality as well as cost in contracting for public improvements.
- 66. The use of the design/build and construction manager/general contractor types of contracts should result in cost savings to the City by allowing various means of controlling costs and coordinating design and construction to reduce costs.

67. The public interest is served by this exemption. The public interest would not be served by requiring competitive bidding on all public improvement contracts because doing so would limit the City's ability to use cost-saving techniques and would prevent the City from considering differences in quality among potential contractors when quality is a legitimate issue. Under the competitive bidding process, the City is required to award the contract to the lowest bidder, even if there is only a one cent difference in cost and a substantial difference in quality, providing that the low bidder meets minimum specifications.

Emergencies

68. In emergencies, the City is often required to take action in less time than it would take to complete a formal competitive process.
69. The exemption promotes competition and discourages favoritism by requiring the City to use an informal competitive process and by limiting the exemption to those contracts needed to avoid a substantial risk of loss, damage or interruption of services.
70. The exemption promotes the public interest by allowing the City to respond quickly to emergencies that threaten loss, damage or interruption of services. The public interest would not be served by requiring a formal competitive process to respond to an emergency.

CONCLUSION

As to each of the exemptions provided in the City's public contracting rules:

71. It is unlikely that any of the exemptions will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts. It is unlikely that the rules as a whole, including all exemptions, will encourage favoritism in the awarding of public contracting or substantially diminish competition for public contracts.
72. The awarding of public contracts pursuant to any of the exemptions will result in substantial cost savings to the City. The exemptions have been prepared to allow less expensive selection processes to be used when a more expensive process would not result in sufficient contract cost reduction to justify a more expensive process.
73. For those provisions allowing public improvement contracts to be awarded by a means other than formal competitive sealed bids, the exemptions will result in cost savings by allowing the use of cost control measures throughout the development process.
74. Each exemption supports the public interest and each exemption is needed to provide a comprehensive approach to public contracting that would not be achieved if any of the exemptions were not provided.

AGENDA ITEM # 10
FOR AGENDA OF Feb. 22, 2005

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Ash Creek Estates Subdivision – LUBA Remand

PREPARED BY: Morgan Tracy DEPT HEAD OK fig for JWH CITY MGR OK CP

ISSUE BEFORE THE COUNCIL

Consider additional public testimony and the applicant's rebuttal for the Ash Creek Estates Planned Development. In light of this information, the Council may either adopt the resolution affirming the previous subdivision approval, or direct staff to modify the findings based on the evidence and testimony.

STAFF RECOMMENDATION

Approve the resolution adopting the Findings and Order.

INFORMATION SUMMARY

At the City Council's February 8, 2005 meeting, the Council opened the public hearing for the Ash Creek LUBA remand. At that hearing, the applicant introduced new evidence which prompted a request to hold the record open for seven days. Legal Counsel advised that to eliminate the possibility of a procedural challenge, the record should be held open. The oral testimony was closed. Additional written public testimony must be submitted by 5 p.m. February 14, 2005. The applicant may respond with rebuttal testimony, which is to be received at City Hall by 4 p.m., February 18, 2005. This information will be provided under a separate cover as will the materials for findings from the February 8, 2005 meeting.

OTHER ALTERNATIVES CONSIDERED

- Prepare alternate findings based on the evidence presented.
- Request additional evidence to support alternate findings.
- Prepare findings to deny the request.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Growth and Growth Management – Goal #1, Accommodate growth while protecting the character and livability of new and established areas.

ATTACHMENT LIST

To be provided under separate cover.

FISCAL NOTES

Staff time and report analysis preparation are not reimbursable as part of this LUBA remand process.

Agenda Item No. 10 – February 22, 2005

PUBLIC HEARING (QUASI-JUDICIAL) ASH CREEK ESTATES – LAND
USE BOARD OF APPEALS (LUBA) REMAND - SUBDIVISION (SUB)
2003-00010/PLANNED DEVELOPMENT REVIEW (PDR) 2003-00004/
ZONE CHANGE (ZON) 2003-00003/SENSITIVE LANDS REVIEW (SLR)
2003-00005/ADJUSTMENT (VAR) 2003-00036/ADJUSTMENT (VAR)
2003-00037

This is a continuation of the hearing of February 8, 2005. Please see the agenda packet for February 8, for the documents prepared for Council review for the initial hearing on the Land Use Board of Appeal remand.

Additional written testimony and rebuttal testimony will be received and distributed to the Council on Friday, February 18, 2005.

Please contact Cathy Wheatley, City Recorder, at 503-639-4171, Ext. 2410 or e-mail: cathy@ci.tigard.or.us if you have questions or need information.

The following pages are packet materials from the initial hearing (2/8/05) for the Ash Creek Estates LUBA Remand

AGENDA ITEM # 8 10
FOR AGENDA OF 2.8.05

Continued
to 2.22.05

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Ash Creek Estates Subdivision – LUBA Remand

PREPARED BY: Morgan Tracy ME7 DEPT HEAD OK [Signature] CITY MGR OK CP

ISSUE BEFORE THE COUNCIL

Consider additional findings and analysis for the Ash Creek Estates Planned Development for the four items on remand from the Land Use Board of Appeals. The Council may either accept the findings and analysis prepared by the applicant and reviewed by staff thereby affirming the previous subdivision approval, modify the findings based on the evidence and testimony received and either affirm or overturn the previous approval, or determine that the criteria for approval are not met and prepare findings to deny the request and overturn the previous subdivision approval.

STAFF RECOMMENDATION

Direct staff to prepare a final order for Council's next meeting to adopt the additional findings in support of the approval for the Ash Creek Estates Planned Development.

INFORMATION SUMMARY

Ash Creek Estates is a proposed 29 lot subdivision on 9.36 acres located at 9750 SW 74th Avenue. On July 7, 2003, the Tigard Planning Commission held a public hearing to consider the application.

The Planning Commission moved to deny the application, which failed in a 4-4 tie vote. The Commission then moved to approve the application, which also failed in a 4-4 tie vote. Based on the Commission's by-laws and Robert's Rules of Order, without a majority affirmative vote, the application was denied. Since no motion was approved, no findings in support or against the application were adopted.

The applicant, Dale Richards of Windwood Homes, filed an appeal of the application denial on July 15, 2003. The City Council held a public hearing, *de novo*, on the appeal on August 12, 2003, but did not have sufficient time to receive testimony from all interested parties. The public hearing was continued to the September 9, 2003 Council meeting to complete the public hearing and render their decision. After that hearing closed, Council members indicated that they were persuaded the requirements of the Development Code had been met and approved a motion for tentative decision for approval of the application. Council directed the applicant to provide the written findings for this decision for final Council consideration at its October 28, 2003 meeting. The applicant submitted findings along with modified conditions of approval to support the decision. The Council met one final time on November 4, 2003 to adopt a corrected resolution approving the Ash Creek Estates proposal.

On November 25, 2003, an appeal of Council's decision was filed with the Land Use Board of Appeals (LUBA). LUBA issued their Final Opinion and Order on August 20, 2004. In that Order, LUBA considered 25 assignments

and sub assignments of error, and remanded the decision back to the City for additional review and findings on four specific sub-assignments of error. Essentially, LUBA accepted the vast majority of the City's approval, but found that insufficient justification had been provided for four specific issues. These issues are

- 1) The City's acceptance of lower "K" values in relation to the proposed vertical sag on SW 74th and demonstration that the City Engineer is authorized to approve such deviations to adopted street standards.
- 2) The requirement that the applicant prepare and submit a tree plan that identifies the size, species, and location of trees on the site, provides a removal plan, protection plan, and mitigation program.
- 3) Insufficient explanation of how the adjustment criteria were met which granted adjustments to cul de sac standards (length and number of units), and the provision of curb-tight sidewalks through the stream crossing.
- 4) A demonstration of how the landscape protection criteria are being met, since no tree protection plan was originally submitted.

The applicant submitted additional findings on November 15, 2004 in support of their application with respect to the above items raised by LUBA. A written acknowledgement to commence the 90 day review period was received from the applicant on December 13, 2004, pursuant to ORS 227.181. Staff has reviewed this additional information, prepared additional analysis and findings and ultimately recommended that the Council adopt those findings and uphold the original approval with the imposition of seven additional conditions of approval, as outlined in the attached Staff Report.

The case on remand is strictly limited to the four issues remanded back from LUBA. Staff has not modified nor deleted any previous conditions of approval, and suggests that the findings contained within the staff report supplement the previously adopted findings, to the extent that they do not conflict, on these four specific issues. The Council may accept, modify, or reject the proposed findings and conditions, but should Council find that the criteria have not been and cannot be met, the result would be a denial of the entire subdivision proposal.

OTHER ALTERNATIVES CONSIDERED

- Prepare alternate findings based on the evidence presented.
- Request additional evidence to support alternate findings.
- Prepare findings to deny the request.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Growth and Growth Management-Goal #1, Accommodate growth while protecting the character and livability of new and established areas.

ATTACHMENT LIST*

Attachment 1 – Staff Report to City Council

Attachment 2 – Applicant's Justification for Items Identified In LUBA Remand, dated November 15, 2004

EXHIBIT A – Tree Plan Narrative – Terragan and Associates, dated November 19, 2004

EXHIBIT B – Revised Tree Preservation Plan – Kurahashi and Associates, dated January 10, 2005

Attachment 3 – Applicant's Statement clarifying the Tree Plan, dated January 19, 2005

Attachment 4 – City Forester's memorandum, dated January 24, 2005

Attachment 5 – City Engineer's memorandum, dated January 25, 2005

* The Record for Ash Creek Estates PD (SUB2003-00010) is incorporated by reference and is available through the City Records, but is not included with this packet due to the volume of material and the redundant nature of including it into the record twice.

FISCAL NOTES

Staff time and report analysis preparation are not reimbursable as part of this LUBA remand process.

**STAFF REPORT TO THE
CITY COUNCIL
FOR THE CITY OF TIGARD, OREGON**



90 DAY REMAND PERIOD = 3/13/2005

SECTION I. APPLICATION SUMMARY

REMAND of ASH CREEK ESTATES SUBDIVISION

FILE NAME:
LUBA FILE NO: 2003-194
CITY CASE NO'S: Subdivision (SUB) SUB2003-00010
Zone Change (ZON) ZON2003-00003
Planned Development Review (PDR) PDR2003-00004
Sensitive Lands Review (SLR) SLR2003-00005
Adjustment (VAR) VAR2003-00036
Adjustment (VAR) VAR2003-00037

APPLICANT: Dale Richards
Winwood Construction
12655 SW North Dakota Street
Tigard, OR 97223

OWNER: Ernest E. and Elda H. Senn
9750 SW 74th Avenue
Tigard, OR 97223

PROJECT CONTACT: Kurahashi and Associates
Attn: Greg Kurahashi
15580 SW Jay, Suite 200
Beaverton, OR 97006

REQUEST: The State Land Use Board of Appeals (LUBA) has remanded City Council's approval of a 29-lot planned development on 9.3 acres and associated sensitive lands and adjustment reviews for additional findings to support their decision. This hearing is limited to the four specific assignments of error which are generally:

- 1) the City's acceptance of lower "K" values in relation to the proposed vertical sag curve on SW 74th and demonstration that the City Engineer is authorized to approve such deviations to adopted street standards,
- 2) the requirement that the applicant prepare and submit a tree plan that identifies the size, species, and location of trees on the site, provides a removal plan, protection plan, and mitigation program in accordance with TCDC 18.790,
- 3) revised findings are required for the proposed curb tight sidewalks on SW 74th to address the relevant criteria of TCDC 18.370.C.11., and
- 4) additional findings related to the landscape protection criteria of TCDC 18.745.030.E.

ZONING DESIGNATION: R-4.5: Low-Density Residential District.

LOCATION: 9750 SW 74th Avenue; WCTM 1S125DC, Tax Lots 300 and 400.

**APPLICABLE
REVIEW
CRITERIA:**

Community Development Code Chapters 18.370, 18.790, and 18.810

SECTION II. STAFF RECOMMENDATION

Staff recommends that the City Council accept and adopt the additional findings presented in the applicant's submittal, as further elaborated on within this report and find that the proposed Planned Development and street adjustments will not adversely affect the health, safety and welfare of the City and meets the Approval Criteria outlined in this report. Therefore, Staff recommends **APPROVAL**, subject to the Conditions of Approval and Findings adopted previously as Resolution 03-61 and further refined, and amended within this report:

CONDITIONS OF APPROVAL

(Note, conditions #1-51 are from the original decision and are included for reference only)

THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO COMMENCING ANY ONSITE IMPROVEMENTS, INCLUDING GRADING, EXCAVATION AND/OR FILL ACTIVITIES:

Submit to the Planning Department (Morgan Tracy, 639-4171, ext. 2428) for review and approval:

1. Prior to site work, the applicant shall submit an arborist report with tree protection recommendations, and shall provide the City Arborist with a construction sequence including installation and removal of tree protection devices, clearing, grading, and paving.
2. Prior to site work, the applicant shall submit a complete set of construction documents with the tree locations for the City Arborists review. The applicant will not cut any healthy trees within the designated open space tract. Furthermore, the applicant shall not cut any healthy trees in the tree preservation areas of Lots 1-18, which shall be defined as the area at least 15' from the rear of the building footprints. However, if an arborist determines that trees in these areas are dead, diseased, or pose a safety hazard, then the applicant shall remove affected trees from those areas.
3. Prior to site work, the applicant shall notify the City Arborist at least 48 hours prior to commencing construction when the tree protection measures are in place so that he may verify that the measures will function properly.
4. Prior to site work, the applicant shall provide evidence of all necessary approvals for work within the wetlands from US Army Corps of Engineers and the Division of State Lands.
5. Prior to site work, the drainage tract must be clearly identified in the field with permanent (preferably with minimum 4-foot-tall black chainlink) fencing so as to insure no grading or material is placed in this area. Any fencing that is damaged during construction must be replaced prior to final building inspection. If the damage is such that it will no longer effectively identify the tract, it shall be replaced/reinstalled immediately.
6. Prior to site work, a signed approval shall be included with the City's construction drawing packet.

Submit to the Engineering Department (Kim McMillan, 639-4171, ext. 2642) for review and approval:

7. Prior to approval of construction plans, the applicant shall "pothole" the City of Tualatin's main water transmission line to determine the exact location and condition of the pipe. The applicant shall notify the City of Tigard and the City of Tualatin 48 hours prior to the pothole inspections and when any construction activity will impact the pipe (such as placement of fill and excavation in the immediate vicinity) so that a representative from both the Cities of Tualatin and Tigard can be present.
8. Prior to commencing onsite improvements, a Public Facility Improvement (PFI) permit is required for this project to cover all infrastructure and any other work in the public right-of-way. Eight (8) sets of detailed public improvement plans shall be submitted for review to the Engineering Department. NOTE: these plans are in addition to any other drawings required by the Building Division and should only include sheets relevant to public improvements. Public Facility Improvement (PFI) permit plans shall conform to City of Tigard Public Improvement Design Standards, which are available at City Hall and the City's web page (www.ci.tigard.or.us).
9. The PFI permit plan submittal shall include the exact legal name, address and telephone number of the individual or corporate entity who will be designated as the "Permittee", and who will provide the financial assurance for the public improvements. For example, specify if the entity is incorporated and provide the name of the corporate contact person. Failure to provide accurate information to the Engineering Department will delay processing of project documents.
10. The applicant shall provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during the public improvement construction phase. All construction vehicle parking shall be provided on-site. No construction vehicles or equipment will be permitted to park on the adjoining residential public streets. Construction vehicles include the vehicles of any contractor or subcontractor involved in the construction of site improvements or buildings proposed by this application, and shall include the vehicles of all suppliers and employees associates with the project.
11. The applicant shall submit construction plans to the Engineering Department as a part of the Public Facility Improvement permit, which indicate that they will construct a half-street improvement along the frontage of 74th Avenue. The improvements adjacent to this site shall include:
 - A. City standard pavement section for a neighborhood route, without bike lanes, from curb to centerline equal to 16 feet, with a minimum pavement width of 24 feet;
 - B. Pavement tapers needed to tie the new improvement back into the existing edge of pavement shall be built beyond the site frontage;
 - C. Concrete curb, or curb and gutter as needed;
 - D. Storm drainage, including any off-site storm drainage necessary to convey surface and/or subsurface runoff;
 - E. 5-foot concrete sidewalk with a planter strip (unless adjusted);
 - F. Street trees in the planter strip spaced per TDC requirements;
 - G. Street striping;

- H. Streetlight layout by applicant's engineer, to be approved by City Engineer;
 - I. Underground utilities;
 - J. Street signs (if applicable);
 - K. Driveway apron (if applicable);
 - L. Adjustments in vertical and /or horizontal alignment to construct SW 74th Avenue in a safe manner, as approved by the Engineering Department, including reductions to the speed limit as necessary; and
 - M. Right-of-way dedication to provide 27 feet from centerline.
12. The applicant's Public Facility Improvement permit construction drawings shall indicate that full width street improvements, including traffic control devices, mailbox clusters, concrete sidewalks, driveway aprons, curbs, asphaltic concrete pavement, sanitary sewers, storm drainage, street trees, streetlights, and underground utilities shall be installed within the interior subdivision streets. Improvements shall be designed and constructed to local street standards.
13. A profile of 74th Avenue shall be required, extending 300 feet either side of the subject site showing the existing grade and proposed future grade.
14. The applicant's construction drawings shall show that the pavement and rock section for the proposed private street(s) shall meet the City's public street standard for a local residential street.
15. The applicant shall obtain approval from the Tualatin Valley Water District for the proposed water connection prior to issuance of the City's Public Facility improvement permit.
16. Final design plans and calculations for the proposed public water quality/detention facility shall be submitted to the Engineering Department (Kim McMillan) as a part of the Public Facility Improvement plans. Included with the plans shall be a proposed landscape plan to be approved by the City Engineer. The proposed facility shall be dedicated in a tract to the City of Tigard on the final plat. As a part of the improvement plans submittal, the applicant shall submit an Operations and Maintenance Manual for the proposed facility for approval by the Maintenance Services Director. The facility shall be maintained by the developer for a three-year period from the conditional acceptance of the public improvements. A written evaluation of the operation and maintenance shall be submitted and approved prior to acceptance for maintenance by the City. Once the three-year maintenance period is completed, the City will inspect the facility and make note of any problems that have arisen and require them to be resolved before the City will take over maintenance of the facility. In addition, the City will not take over maintenance of the facility unless 80 percent of the landscaping is established and healthy. If at any time during the maintenance period, the landscaping falls below the 80 percent level, the developer shall immediately reinstall all deficient planting at the next appropriate planting opportunity.
17. An erosion control plan shall be provided as part of the Public Facility Improvement (PFI) permit drawings. The plan shall conform to the "Erosion Prevention and Sediment Control Design and Planning Manual, December 2000 edition."
18. A final grading plan shall be submitted showing the existing and proposed contours. The plan shall detail the provisions for surface drainage of all lots, and show that they will be graded to ensure the surface drainage is directed to the street or a public storm drainage system

approved by the Engineering Department. For situations where the back portions of lots drain away from a street and toward adjacent lots, appropriate private storm drainage lines shall be provided to sufficiently contain and convey runoff from each lot.

19. The applicant shall incorporate the recommendations from the submitted geotechnical report by GeoPacific Engineering, Inc., dated May 9, 2003, into the final grading plan. The applicant shall have the geotechnical engineer ensure that all grading, including cuts and fills, are constructed in accordance with the approved plan and Appendix Chapter 33 of the UBC. A final construction supervision report shall be filed with the Engineering Department prior to issuance of building permits.
20. The design engineer shall indicate, on the grading plan, which lots will have natural slopes between 10% and 20%, as well as lots that will have natural slopes in excess of 20%. This information will be necessary in determining if special grading inspections and/of permits will be necessary when the lots develop.
21. The final construction plans shall be signed by the geotechnical engineer to ensure that they have reviewed and approved the plans. The geotechnical engineer shall also sign the as-built grading plan at the end of the project.
22. The applicant shall obtain a 1200-C General Permit issued by the City of Tigard pursuant to ORS 468.740 and the Federal Clean Water Act.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO APPROVAL OF THE FINAL PLAT:**

Submit to the Planning Department (Morgan Tracy, 639-4171, ext 2428) for review and approval:

23. Prior to approval of the final plat, the applicant shall revise the plat to accommodate a minimum of 25 feet of frontage for all lots within the development.
24. Submit a revised street tree/landscape plan that shows an alternative tree species used for the public street to vary the streetscape.
25. The applicant shall provide joint access within an easement or tract to Lots 28 and 29 and cause a statement to be placed on the plat limiting additional direct vehicular access to SW 74th Avenue.
26. Provide a plat name reservation approval from Washington County.
27. Prior to final subdivision plat approval, the applicant shall convey title for the proposed open space to a homeowner's association in accordance with the requirements of Section 18.350.110.A.2.b of the Tigard Development Code.

Submit to the Engineering Department (Kim McMillan), 639-4171, ext. 2642) for review and approval:

28. Prior to approval of the final plat the applicant shall obtain a plumbing permit for the construction of the private storm line in the private street.

29. Prior to approval of the final plat, the applicant shall pay an addressing fee in the amount of \$900.00 (Staff Contact: Shirley Treat, Engineering).
30. Prior to approval of the final plat, the applicant shall cause a statement to be placed on the final plat to indicate that the proposed private street(s) will be jointly owned and maintained by the private property owners who abut and take access from it (them).
31. Prior to approval of the final plat, the applicant shall prepare Conditions, Covenants and Restrictions (CC&R's) for this project, to be recorded with the final plat, that clearly lays out a maintenance plan and agreement for the proposed private street(s). The CC&R's shall obligate the private property owners within the subdivision to create a homeowner's association to ensure regulation of maintenance for the street(s). The CC&R's shall additionally establish restrictions regarding the removal of trees greater than 12 inches in diameter from any of the lots or tracts following completion of the subdivision improvements. Trees may only be allowed to be removed subject to a certified arborist's finding that the trees are dead, or in severe decline. The applicant shall submit a copy of the CC&R's to the Engineering Department (Kim McMillan) and the Planning Department (Morgan Tracy) prior to approval of the final plat.
32. Prior to approval of the final plat, the applicant shall demonstrate that they have formed and incorporated a homeowner's association.
33. Prior to approval of the final plat, the applicant shall either place the existing overhead utility lines along SW 74th Avenue underground as a part of this project, or they shall pay the fee in-lieu of under grounding. The fee shall be calculated by the frontage of the site that is parallel to the utility lines and will be \$27.50 per lineal foot. If the fee option is chosen, the amount will be \$11,578.00 and it shall be paid prior to final plat approval.
34. Prior to approval of the final plat, the applicant shall provide a maintenance access road to the facility and any drainage structures within the facility to accommodate City maintenance vehicles. The access road shall be paved and have a structural section capable of accommodating a 50,000-pound vehicle. The paved width shall be a minimum of 10 feet wide, and there shall be two-foot rock shoulders provided on each side. If the maintenance roadway is over 150 feet in length, a turnaround shall be provided.
35. The applicant's final plat shall contain State Plane Coordinates on two monuments with a tie to the City's global positioning system (GPS) geodetic control network (GC 22). These monuments shall be on the same line and shall be of the same precision as required for the subdivision plat boundary. Along with the coordinates, the plat shall contain the scale factor to convert ground measurements to grid measurements and the angle from north to grid north. These coordinates can be established by:
- GPS tie networked to the City's GPS survey.
 - By random traverse using conventional surveying methods.
36. Final Plat Application Submission Requirements:
- A. Submit for City review four (4) paper copies of the final plat prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.

- B. Attach a check in the amount of the current final plat review fee (Contact Planning/Engineering Permit Technicians, at (503) 639-4171, ext. 426).
- C. The final plat and date or narrative shall be drawn to the minimum standards set forth by the Oregon Revised Statutes (ORS 92.05), Washington County, and by the City of Tigard.
- D. The right-of-way dedication for 74th Avenue shall be made on the final plat.
- E. Note: Washington County will not begin their review of the final plat until they receive notice from the Engineering Department indicating that the City has reviewed the final plat and submitted comments to the applicant's surveyor.
- F. After the City and County have reviewed the final plat, submit two mylar copies of the final plat for City Engineer signature (for partitions), or City Engineer and Community Development Director signatures (for subdivisions).

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO ISSUANCE OF BUILDING PERMITS:**

Submit to the Planning Department (Morgan Tracy, 639-4171, ext. 2428) for review and approval:

- 37. Prior to issuance of any building permits, re-plant any area where vegetation has been removed as a result of grading in conformance with the Clean Water Services Standards as set forth in the site assessment file #2819, prior to obtaining building permits.
- 38. Prior to issuance of any building permits, the applicant shall submit plans that show one (1) off-street parking space, which meets minimum dimensional requirements and setback requirements as specified in Title 18, provided on-site for each new home.
- 39. At the time of application for building permits for individual homes, the applicant shall demonstrate that each site will be accessed by a minimum 10-foot-wide paved access.
- 40. Prior to the issuance of building permits, the developer shall sign a copy of the City's sign compliance agreement.
- 41. Prior to the issuance of building permits the applicant shall submit a revised plan that indicates the modified setbacks as set forth in this decision and record a copy of the approved setback plan with the deeds for each lot.
- 42. Prior to issuance of building permits for structures on the individual lots within this development, the applicant shall demonstrate compliance with the height requirement of the underlying zone. The requirement calls for 30-foot maximum height for primary units and 15 feet maximum for all accessory structures.
- 43. Prior to the issuance of building permits on any lot, the applicant must provide city staff with a letter from Clean Water Services that indicates compliance with the approved service provider letter (#2819).

Submit to the Engineering Department (Kim McMillan, 639-4171, ext. 2642) for review and approval:

44. Prior to issuance of building permits the applicant's engineer shall provide a post-construction sight distance certification for the new intersection at 74th Avenue.
45. The City Engineer may determine the necessity for, and require submittal and approval of, a construction access and parking plan for the home building phase. If the City Engineer deems such a plan necessary, the applicant shall provide the plan prior to issuance of building permits.
46. Prior to issuance of building permits, the City Engineer shall deem the public improvements substantially complete. Substantial completion shall be when: 1) all utilities are installed and inspected for compliance, including franchise utilities, 2) all local residential street have at least one lift of asphalt, 3) any off-street and/or utility improvements are substantially completed, and 4) all street lights are installed and ready to be energized. Note: The City apart from this condition, and in accordance with the City's model home policy may issue model home permits).
47. Prior to issuance of building permits, the applicant shall provide the City with as-built drawings of the public improvements as follows: 1) 3 mil mylar, 2) a diskette of the as-builts in "DWG" format, if available; otherwise "DXF" will be acceptable, and 3) the as-built drawings shall be tied to the City's GPS network. The applicant's engineer shall provide the City with an electronic file with points for each structure (manholes, catch basins, water valves, hydrants and other water system features) in the development, and their respective X and Y State Plane Coordinates, referenced to NAD 83 (91).
48. Prior to issuance of building permits, the applicant shall provide the Engineering Department with a "photo mylar" copy of the recorded final plat.
49. The applicant shall provide signage at the entrance of each shared flag lot driveway or private street that lists the addresses that are served by the given driveway or street.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO ISSUANCE OF FINAL BUILDING INSPECTION:**

50. The applicant shall install street trees and an evergreen hedge of Leyland Cypress spaced no greater than three feet on center along the northern property line of Lots 1-10 and the eastern property line of Lots 10-12.

**ADDITIONAL CONDITIONS OF APPROVAL
FOR ASH CREEK ESTATES:**

51. The applicant and future owners of lots within the development shall ensure that the requirements of CDC 18.725 (Environmental Performance Standards) are complied with at all times.

ADDITIONAL CONDITIONS IMPOSED THROUGH REMAND FINDINGS AND ANALYSIS

52. Prior to commencing site work, the applicant shall submit construction drawings that show advisory "15 mph" speed limit signs to be placed in advance of the crest and sag curves on SW 74th in accordance with the City Engineer's Memorandum of January 25, 2005, which requires that the sag be monitored after construction to determine if any other measures need to be taken. The applicant shall be responsible for installation of additional measures within a year after construction of the street is accepted by the City if monitoring indicates that additional traffic control measures are needed.
53. Prior to commencing site work, the applicant shall submit a bond for the equivalent value of mitigation required (3,446 number of caliper inches times \$125 per caliper inch). If additional trees are preserved through the subdivision improvements and construction of houses, and are properly protected through these stages by the same measures afforded to other protected trees on site, the amount of the bond may be correspondingly reduced. Any trees planted on the site or off site in accordance with 18.790.060 (D) will be credited against the bond, for two years following final plat approval. After such time, the applicant shall pay the remaining value of the bond as a fee in lieu of planting.
54. Prior to issuance of building permits, the applicant/owner shall record a deed restriction for each lot to the effect that any existing tree greater than 12" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this decision should either die or be removed as a hazardous tree.
55. Prior to commencing any site work, the applicant shall submit construction drawings that include the approved Tree Removal, Protection and Landscape Plan. The "Tree Protection Steps" identified in Teragan & Associates Letter of November 19, 2004 shall be reiterated in the construction documents. The plans shall also include a construction sequence including installation and removal of tree protection devices, clearing, grading, and paving. Only those trees identified on the approved Tree Removal plan are authorized for removal by this decision.
56. Prior to commencing any site work, the applicant shall establish fencing as directed by the project arborist to protect the trees to be retained. The applicant shall allow access by the City Forester for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.
57. Prior to final plat approval, the applicant shall ensure that the Project Arborist has submitted written reports to the City Forester, once every two weeks, from initial tree protection zone (TPZ) fencing installation, through site work, as he monitors the construction activities and progress. These reports should include any changes that occurred to the TPZ as well as the condition and location of the tree protection fencing. If the amount of TPZ was reduced then the Project Arborist shall justify why the fencing was moved, and shall certify that the construction activities to the trees did not adversely impact the overall, and long-term health and stability of the tree(s). If the reports are not submitted or received by the City Forester at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan is not being

followed by the contractor, the City shall stop work on the project until an inspection can be done by the City Forester and the Project Arborist. This inspection will be to evaluate the tree protection fencing, determine if the fencing was moved at any point during construction, and determine if any part of the Tree Protection Plan has been violated.

58. Prior to issuance of building permits, the applicant shall submit site plan drawings indicating the location of the trees that were preserved on the lot, location of tree protection fencing, and a signature of approval from the project arborist regarding the placement and construction techniques to be employed in building the house. All proposed protection fencing shall be installed and inspected prior to commencing construction, and shall remain in place through the duration of home building. After approval from the City Forester, the tree protection measures may be removed.

THIS APPROVAL SHALL BE VALID FOR 18 MONTHS FROM THE EFFECTIVE DATE OF THE CITY COUNCIL'S FINAL DECISION.

SECTION III. BACKGROUND INFORMATION

Application History

The property is currently developed with one single-family residence and a couple of small outbuildings. On July 7th, 2003, the Tigard Planning Commission held a public hearing to consider an application for a 29 lot subdivision and planned development on 9.36 acres. The property is located at 9750 SW 74th Avenue. The proposal is to provide single-family detached housing on lots ranging between 4,702 and 11,616 square feet.

The Planning Commission moved to deny the application, which failed in a 4-4 tie vote. The Commission then moved to approve the application, which also failed in a 4-4 tie vote. Based on the Commission's by-laws and Robert's Rules of Order, without a majority affirmative vote, the application is denied. Since no motion was approved, no findings in support or against the application were adopted.

The applicant, Dale Richards of Windwood Homes, filed an appeal of the application denial on July 15, 2003. His stated grounds for the appeal are "That applicant contends that the Planning Commission should have adopted specific grounds for denial. The denial should have been based on the proposed plan not meeting the Development Code. All specific requirements of the code were met. The applicant, therefore, proposes that the project should be approved through the appeal process."

On August 12, 2003, the City Council held a public hearing on the appeal to reconsider the application, de novo. Based on the large numbers of those in attendance wishing to testify, there was insufficient time to receive testimony from all interested parties. Therefore Council continued the public hearing to the September 9th Council meeting to complete the public testimony.

At the September 9, 2003 hearing, the applicant offered rebuttal to the points raised by the opponents. After the hearing closed, Council members indicated that they were persuaded the requirements of the Development Code had been met and approved a motion for tentative decision for approval of the application. Council directed the applicant to provide the written findings for this decision for final Council consideration at its October 28, 2003 meeting. The applicant submitted

findings along with modified conditions of approval to support the decision. At the October meeting, Council adopted resolution 03-58 approving the Ash Creek Estates Subdivision.

In that resolution, a reference was made to a letter dated September 26, 2003 from the applicant. That date was erroneous. The letter which established the Conditions of Approval for the project is dated October 10, 2003. The correct letter, and consequently the correct findings and conditions of approval were incorporated in the adopted resolution. Only the reference to the date of the letter in the resolution was in error. As a result, on November 4, 2003, the City Council adopted a resolution (Resolution No. 03-61) correcting the reference.

Within the 21-day appeal period established for appeals to the State Land Use Board of Appeals, John Frewing filed an appeal with LUBA. On August 20, 2004, the Land Use Board of Appeals ("LUBA"), issued a decision to remand the City's decision approving the application. LUBA's decision specified four instances where it found the City's findings insufficient.

Vicinity Information:

The site is located in the northwest corner of the City limits, south of SW Taylor's Ferry Road, on the east side of SW 74th Avenue. The property is surrounded on all sides by single-family residences on lots that vary in size. There is a stream (Ash Creek) on the property that runs in an east west direction along the southern property boundary. This drainageway contains wetlands and areas of steep slopes.

Proposal Information:

The applicant is proposing to subdivide the parcel into 29 lots for single-family residences. Because of the trees, wetlands, and slopes on the site, the applicant has requested a planned development to allow them to vary the underlying zoning standards to develop around these features. The applicant is also requesting an adjustment to allow a curb tight sidewalk as opposed to a sidewalk separated from the travel surface by a planter strip, and an adjustment to the cul-de-sac standards limiting the number of units on a cul-de-sac and the 200-foot maximum length permitted for a cul-de-sac.

SECTION IV. DECISION MAKING PROCEDURES, PERMITS AND USE

USE CLASSIFICATION: SECTION 18.130.020

Lists the Use Categories.

The applicant is seeking approval of a 29-lot subdivision on 9.3 acres. The lots are to be developed with detached single-family homes. Single family residential development is outright permitted in the R-4.5 zone. The existing single-family home is to be demolished. Lot sizes within the proposed development are between 4,702 and 11,616 square feet and average 6,424 square feet. The applicant is also proposing to set aside approximately 4.15 acres in an open space tract for the drainageway and wetland area. A private street cul-de-sac is also proposed to extend from the public street stub into the property. The site is located within the R-4.5, Low Density Residential District. Planned Developments are permitted in all zoning districts. The applicant has applied for conceptual and detailed planned development approval in conjunction with the subdivision.

SUMMARY OF LAND USE PERMITS: CHAPTER 18.310

Defines the decision-making type to which the land-use application is assigned.

This is a Planned Development/Subdivision, which is defined as a Type III-PC Application. The Planning Commission decision is appealable to the City Council. The City Council decision is the final

decision at the local level. Appeals of City Council decisions are heard at the State level by the Land Use Board of Appeals (LUBA). LUBA may either affirm, reject, modify, or remand the decision back to the local decision making authority. In this case, LUBA remanded the decision for further consideration.

DECISION MAKING PROCEDURES: CHAPTER 18.390

Describes the decision-making procedures.

Type III procedures apply to quasi-judicial permits and actions that contain predominantly discretionary approval criteria. Type III-PC actions are decided by the Planning Commission with appeals to the City Council. Type III-HO actions are decided by the Hearings Officer with appeals to City Council. In cases where both the Hearings Officer and Planning Commission are involved, the Planning Commission has preferential jurisdiction, per Tigard Development Code (TDC) Section 18.390.080(D)(2)(a).

SECTION VI. APPLICABLE REVIEW CRITERIA AND FINDINGS

As this case has been remanded from LUBA¹ based on four assignments of error related to insufficient evidence to support the City's conclusions, the applicable review criteria are those related to the specific assignments of error. City Council has previously reviewed this proposed development, and provided findings related to the other relevant portions of the review criteria. Those findings are memorialized by Resolutions 03-58 and 03-61. This review is limited to the criteria and issues that were raised by LUBA. The applicant provided a narrative and additional evidence to respond to the issues outlined in LUBA's remand. The findings contained herein are intended to supplement the City's existing adopted findings where consistent. In the case that the following findings conflict with the original findings, these findings shall govern.

LUBA's opinion on the four assignments of error on which it remanded are reproduced in their entirety in the following sections (distinguished by a different typeface), followed by the applicant's additional findings and Staff's analysis, as applicable.

1. ASSIGNMENT OF ERROR 5(B)

LUBA found that there was inadequate evidence to support the City's position that it has the authority to approve a street design that does not meet the standard design specifications, especially as it relates to the vertical sag curve on SW 74th Avenue. The text of their discussion follows:

B. Vertical Sag Curve

SW 74th Avenue along the western border of the property is currently unimproved. To improve SW 74th Avenue along the western border of the property a creek and wetlands near the southwestern corner of the property must be crossed, which will create a vertical sag curve.² With increased speed, the vertical sag curve needs to be more level or gentle to allow traffic traveling at the road's design speed to travel across the vertical sag curve safely. With decreased speed, the vertical sag curve can be steeper, or more severe, and still be safely

¹ ORS 197.835(9) states "In addition to the review under subsections (1) to (8) of this section, the board shall reverse or remand the land use decision under review if the board finds [that] the local government or special district made a decision not supported by substantial evidence in the whole record."

² According to respondent, a vertical sag curve is the opposite of the type of curve that must be negotiated to climb and crest a hill and descend the other side of the hillcrest. In traversing a vertical sag curve, one descends to the bottom of the curve and then climbs up the other side of the curve.

traveled. **The issue presented in this subassignment of error is whether the city approved construction of SW 74th with a vertical sag curve that is too steep.** (emphasis added)

TCDC 18.810.020(B) provides that the City Engineer is to establish street construction standards.³ The parties apparently agree that the City Engineer has done so. Attached to the petition for review, as Appendix B, are two figures that petitioner and the city apparently agree are street construction standards that have been adopted by the City Engineer. The first figure shows a typical road pavement section, which indicates that the design speed for local roads is 25 miles per hour. The second figure shows vertical sag curve "K" values for roads with different design speeds. We do not fully understand that table, but the vertical sag curve "K" values clearly increase with design speed. For example a road with a design speed of 25 miles per hour must have a K value of at least 13.4. For a road with a design speed of 55 miles per hour, a K value of at least 65.1 is required. It appears that the smaller the "K" value the steeper the vertical sag curve. Conversely, the larger the "K" value the more gentle the curve.

Rather than place fill in the area of the creek to decrease the severity of the vertical sag curve to a "K" value of at least 13.4, the county [sic] approved a steeper vertical sag curve with a "K" value of 5.4.⁴ To allow the steeper vertical sag curve and maintain safety, the county [sic] reduced the speed limit that would otherwise apply to this part of SW 74th Avenue to 15 miles per hour. The county [sic] explained its decision as follows:

"The applicant also requested that the speed limit be reduced to 15 miles per hour in the section where the 74th Avenue crossing will occur. This speed limit was accepted by the City of Tigard Engineer. The city of Tigard standards are met by a 15 mile per hour vertical curve design, to a 'K value' of greater than 5 (AASHTO)." Record 43.

It may well be that a road with speed limited to 15 miles per hour with a vertical sag curve with a "K" value of greater than 5 is just as safe as roads with the design speeds shown on the table with vertical sag curves with the "K" value that corresponds to the different design speeds. However, the city's street standards seem to call for roads with a design speed of at least 25 miles per hour. Roads with a design speed of 25 miles per hour may have vertical sag curves with a "K" value of no less than 13.4. While avoiding the fill that will be necessary to achieve a vertical sag curve in this section of SW 74th Avenue might make sense from both environmental impact and traffic engineering perspectives, and might result in no compromise in safety if the posted speed limit is reduced to 15 miles per hour, **the city's findings identify no authority for simply deviating from the lowest "K" value that is specified in the city's standards, and reducing the speed on the street to maintain safety.**⁵ (Emphasis added). If the City Engineer has retained discretion under the TCDC and any other related city regulations to simply deviate from the table and allow construction of a road with a lower "K" value and impose a speed limit to preserve safety, no party identifies such authority.

The findings simply say the City Engineer has accepted the proposal. Neither the city's findings nor the response brief identify any place in the record that explains the City Engineer's reasoning in support of the lower "K" value or the city's engineer's authority to approve deviations from the adopted "K" values. Without that explanation, we must sustain this subassignment of error.

ADDITIONAL FINDINGS AND ANALYSIS

SW 74th Avenue along the western border of the property is currently unimproved. The City required the applicant to make improvements to S.W. 74 as part of its approval (Conditions 10, 11, 13, 33, 45).

³TCDC 18.810.020(B) provides:

"Standard specifications. The City Engineer shall establish [street and utility] standard specifications consistent with the application of engineering principles."

⁴The findings explain that to achieve a "K" value of 13.4 a great deal of fill would be required in the wetland and that fill would have to be placed on top of an existing water line. The city wished to avoid placing this amount of fill on the water line. Record 84.

⁵Taken to an extreme, if the speed limit were reduced to a crawl, we assume almost any "K" value could be accommodated.

The applicant has accepted these conditions. The applicant notes that due to the topography and the existence of a stream, the improvements to S.W. 74 will result in a fairly steep sag curve and a corresponding crest curve. There are standards that define how steep sag and crest curves can be at various speeds. The steepness of the curves is expressed as a "K" value. For example, at a speed of 25 miles per hour (mph), the typical standards require a vertical sag "K" value of no less than 13.4. In this case, the speed limit on S.W. 74th is 25 mph. To achieve a "K" value of 13.4, the applicant would have to place a significant amount of fill in S.W. 74 to make the sag curve shallower and the crest curve lower.

During the hearing process, the applicant provided evidence that significant fill would cause negative impacts to the resources adjacent to S.W. 74th and might possibly damage an existing 36-inch diameter water main serving the City of Tualatin that is in the street right of way. Also, in order to be able to maintain this line, the amount of earth over the line must be minimized. By designing the curves to meet the "K" values required for a 25 mile per hour design speed would result in fills greater than 35 feet deep. This would impede normal and emergency maintenance and repairs as well as make a large failure have catastrophic results (i.e. loss of the road and loss of water service to the City of Tualatin).

Also the fills would result in greater impacts to the creek with either larger footings for retaining walls or wider fill slope areas, which would remove a meander in the creek, more wetland area, and additional large trees from the sensitive area.

The applicant's engineer considered using a bridge as opposed to fill. The applicant's engineer concluded that a bridge would result in an unmaintainable water line that could not be repaired or maintained under the bridge deck and the line would be much too expensive to construct and maintain.

Relocating the waterline is not a viable option either since it would interrupt water service to the City of Tualatin. This would also increase the difficulty of maintaining the line as it would be in the waterway as well as have increased impacts to the sensitive resources.

As the applicant had previously presented, allowing for a lower speed limit is the only reasonable solution to the waterline construction and maintenance issue. At 15 mph, Windwood could make the required improvements using only 21.63 ft. of fill. While that means that any repair will still require some excavation, it is 13.27 feet less than what is required if the sag curve is designed at 25 mph, and as a result, much more viable to maintain.

Accordingly, the applicant proposed to lower the speed limit in the area of the sag curve to 15 mph. At that speed the sag curve "K" factor is no less than 5. The applicant could improve S.W. 74th to meet that standard without significant fill. The City agreed with the applicant's proposal and, in the final findings, stated as follows:

"The applicant also requested that the speed limit be reduced to 15 mph in the section where the S.W. 74 Avenue crossing will occur. This speed limit was accepted by the City of Tigard Engineer. The City of Tigard standards are met by a 15 mph vertical curve design to a "K" value of greater than 5 (AASHTO)."

The City Engineer has provided a memorandum expressly approving the modified design by granting an exception to the standard. This exception is mitigated by the requirement for additional advisory signage and street lighting, as further described in the memo.

Section B (City of Tigard Standard Specifications) reads "The City Engineer shall establish standard specifications consistent with the application of engineering principles" The City's Public Improvement standards are based on AASHTO standards and the standards of Washington County. The preface to the City's design standards states: "The form has been kept brief and no attempt has been made to

cover all possible situations or to provide detailed explanations.” In relation to sag curves and crest curves, the Washington County standards, as set forth in tables, include speeds of less than 25 mph and speeds as low as 15 mph. Because the City’s published tables are not intended to be comprehensive and because they are based on Washington County standards, the applicant asserts, and the City agrees that the City Engineer has the authority to approve a design based on a 15 mph speed consistent with Washington County standards. The Washington County table confirms that the applicant’s proposed design meets AASHTO standards since Washington County designs conform to AASHTO.

In fact, the applicant’s proposed design exceeds Washington County’s standards. Washington County’s standard for both sag and crest curves require a “K” value of at least 5.0 at 15 mph. The applicant’s proposed design will result in a “K” value of 5.3.

In order to clarify the authority to “set” speed limits, the applicant’s engineer contacted the State of Oregon. The speed limit is set by the State as 25 miles per hour as the normal speed limit on all residential streets. Where specific sections of streets cannot meet this standard, cities have authorization to provide design exceptions that allow for sections of streets that they are in ownership of to be constructed, reconstructed, or repaired that don’t meet the speed limit standards. The State administers design exceptions on its own highways as well. According to the State, design exceptions at the state level are mitigated by using advisory signs as well as other safety measures. Jurisdictions are, therefore, allowed to post special signs and take other measures to safely control traffic.

The applicant proposes two options:

Option 1: Advisory Signage

- A. Install “Bump” sign with 15 mph advisory sign below it.
- B. Install “DIP” sign with 15 mph advisory sign below it.

(Place sign in advance of crest or sag to allow safe reaction and deceleration time.)

Option 2: Three Way Stop Intersection

- A. Install a “3 -Way Stop” at the intersection of the new public road access to S.W. 74 Avenue.
- B. Install “DIP” sign with 15 mph advisory sign below it.

(Place sign in advance of crest or sag to allow safe reaction and deceleration time.)

Although Option 2 would result in a stop sign on S.W. 74 which is a through street, this would remove the need to sign the street for 15 miles per hour at the crest since the stop sign will slow traffic to an approach speed of 15 mph at the critical location. Although this would not meet warrants for a “need” by ASSHTO standards, this would be a very effective “legal” mitigation for the crest not meeting speed design standards. These measures would qualify as a mitigation for the sag and crest.

The City Engineer has determined that neither option presented is desirable. Option 1 seemingly calls for the installation of a speed bump, which could exacerbate the present deficient “K” value, and there is insufficient documentation in the record to indicate the effects of such a proposal. Option 2 proposes to install stop signs on a designated through route (SW 74th Avenue), without sufficient warrants to require the stop signs. The City Engineer has determined that placement of “15 mph” advisory signage in advance of the crest and sag in each direction are appropriate mitigation

measures and are sufficient to address the deficient "K" value. The City Engineer has determined that the sag should be monitored to verify whether the signage is sufficient to slow traffic. If not effective, the applicant will be required to install additional traffic control measures at the direction of the City Engineer within a year following completion of the street construction. A condition to this effect will be imposed:

Recommended Condition of Approval (#52):

Prior to commencing site work, the applicant shall submit construction drawings that show advisory "15 mph" speed limit signs to be placed in advance of the crest and sag curves on SW 74th in accordance with the City Engineer's Memorandum of January 25, 2005, which requires that the sag be monitored after construction to determine if any other measures need to be taken. The applicant shall be responsible for installation of additional measures within a year after construction of the street is accepted by the City if monitoring indicates that additional traffic control measures are needed.

2. ASSIGNMENT OF ERROR 5(I)

LUBA disagreed with the City's interpretation of the Development Code that would exempt properties with timber deferral status from filing a tree plan consisting of an inventory, removal plan, protection plan, and mitigation program. The text of their discussion follows:

I. Completeness and Adequacy of the Applicant's Tree Plan

One section of the TCDC is entitled "Tree Removal." TCDC 18.790. We recently discussed this section of the TCDC at some length in *Miller v. City of Tigard*, 46 Or LUBA 536, 539-43 (2004). There are several sections of TCDC 18.790 that are relevant under this assignment of error.

1. Tree Removal Permits

TCDC.790.050 identifies circumstances where a permit is required from the city to remove a tree and identifies circumstances where a permit is not required to remove a tree.⁶ Under TCDC 18.790.050(A), a city permit is required to remove any trees growing on sensitive lands. But under TCDC 18.790.050(A), no permit would be required from the city to remove the trees from the part of the subject property that falls outside the sensitive land area along the southern part of the property. TCDC 18.790.050(D)(4) appears to have been intended as a further qualification of the TCDC 18.790.050(A) requirement for a permit to remove trees on sensitive lands. But if TCDC 18.790.050(D) was intended to qualify TCDC 18.790.050(A), the final clause of TCDC 18.790.050(D)(4) renders the exemption inapplicable in the only circumstance it could apply, *i.e.*, where land in Christmas tree or forest tax deferral is on sensitive lands. The TCDC 18.790.050(D)(4) exemption is unnecessary for trees that are not located on sensitive lands, because TCDC 18.790.050(A) does not require a permit to remove such trees in the first place.

In summary, as far as we can tell, the applicant could remove all of the trees from the portion of the property that the applicant proposes to develop, without violating TCDC 18.790.050(A). That is because those

⁶As relevant, TCDC 790.050 provides:

"A. Removal permit required. Tree removal permits shall be required only for the removal of any tree which is located on or in a sensitive land area as defined by Chapter 18.775.

"* * * * *

"D. Removal permit not required. A tree removal permit shall not be required for the removal of a tree which:

"* * * * *

"4. Is used for Christmas tree production, or [stands on] land registered with the Washington County Assessor's office as tax-deferred tree farm or small woodlands, but does not stand on sensitive lands."

trees are not located on sensitive lands, and TCDC 18.790.050(A) does not require a permit to remove trees unless those trees are located on sensitive lands.

2. The Tree Plan Requirement

TCDC 18.790.030 requires that a tree plan be provided when property is developed.⁷ The precise nature of the obligation to protect trees through a tree plan is somewhat ambiguous. TCDC 18.790.030(A) states "[p]rotection is preferred over removal wherever possible." [See footnote 7]. But TCDC 18.790.010(C) expressly recognizes that trees may need to be removed to develop property,⁸ and TCDC 18.790.030(B)(2) anticipates that more than 75% of the trees on a site may be removed to accommodate development, subject to mitigation requirements. [See footnote 7]. In addition to the somewhat ambiguous preference for preserving trees, the city also relies on a series of incentives for tree preservation, which are set out in TCDC 18.790.040.

3. Petitioner's Arguments

Petitioner challenges the adequacy of the applicant's tree protection plan. The focus of petitioner's challenge is on the part of the subject property that is to be developed, where most of the trees will be removed. It is not clear to what degree petitioner's arguments challenge the adequacy part of the plan that applies to the sensitive lands, where almost all of the trees are to be preserved. But petitioner's argument includes an overriding complaint that the applicant's tree protection plan evolved significantly over the course of the local proceedings and that it is difficult or impossible to determine with any degree of certainty precisely what the tree protection plan is.

The city and intervenor do not really respond to petitioner's arguments that the tree protection plan that the applicant submitted and the city ultimately approved is inadequate to comply with a number of particular requirements of TCDC 18.390.030. (emphasis added) Instead they rely on city council findings that no tree protection plan is required at all for the part of the property that lies outside the sensitive lands part of the property and that the plan to protect nearly all the trees on the sensitive lands is sufficient to comply with TCDC 18.390.030. We turn to those findings.

⁷TCDC 18.790.030 provides:

"A. Tree plan required. A tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided for any lot, parcel or combination of lots or parcels for which a development application for a subdivision, partition, site development review, planned development or conditional use is filed. Protection is preferred over removal wherever possible.

"B. Plan requirements. The tree plan shall include the following:

"1. Identification of the location, size and species of all existing trees including trees designated as significant by the city;
"2. Identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper. Mitigation must follow the replacement guidelines of Section 18.790.060D, in accordance with the following standards and shall be exclusive of trees required by other development code provisions for landscaping, streets and parking lots:

"a. Retention of less than 25% of existing trees over 12 inches in caliper requires a mitigation program in accordance with Section 18.790.060D of no net loss of trees;

"b. Retention of from 25% to 50% of existing trees over 12 inches in caliper requires that two-thirds of the trees to be removed be mitigated in accordance with Section 18.790.060D;

"c. Retention of from 50% to 75% of existing trees over 12 inches in caliper requires that 50 percent of the trees to be removed be mitigated in accordance with Section 18.790.060D;

"d. Retention of 75% or greater of existing trees over 12 inches in caliper requires no mitigation.

"3. Identification of all trees which are proposed to be removed;

"4. A protection program defining standards and methods that will be used by the applicant to protect trees during and after construction. * * *.

⁸TCDC 18.790.010(C) provides:

"Recognize need for exceptions. The City recognizes that, * * * at the time of development it may be necessary to remove certain trees in order to accommodate structures, streets utilities, and other needed or required improvements within the development."

4. The City's Findings

Simply stated the city council found that a tree protection plan is not required for the part of the subject property where the applicant proposes to develop houses, notwithstanding the express requirement in TCDC 18.390.030 that a tree plan must be provided "for any lot, parcel or combination of lots or parcels for which a development application for a subdivision * * * [or] planned development * * * is filed." The city council reached this conclusion based in large part on the TCDC 18.390.050(D)(4) exemption for tree removal permits discussed above. The city council recognized that if TCDC 18.390.050 is read by itself, the TCDC 18.390.050(D)(4) exception serves no purpose, for the reasons we have already explained. To give TCDC 18.390.050(D)(4) some effect, the city council concluded it should be read to exempt proposals to develop lands that are not sensitive lands from the TCDC 18.390.030 requirements for a tree plan and for mitigation in certain circumstances. The fatal problem with that interpretation is that TCDC 18.390.050(D)(4) does not say anything about tree plans or mitigation; it is an unnecessary exception to the TCDC 18.390.050(A) requirement for a tree permit. We review a local governing body's interpretation of its land use regulations under the standard set out at ORS 197.829(1) and the Court of Appeals' decision in *Church v. Grant County*.⁹ Even if interpreting TCDC 18.390.050(D)(4) in the way the city did here might have survived the more deferential standard of review that was required before *Church*, it cannot be affirmed under *Church*. Contrary to the city's argument, the city's interpretation does not merely clarify "the scope of the exemption" provided by TCDC 18.390.050(D)(4), it applies it to a tree plan requirement that it clearly does not apply to. The city council's interpretation is inconsistent with the express language of TCDC 18.390.050(D)(4).

The city council's policy reason for the interpretation it applied here presents only a slightly closer question. The city council concluded that no permit is necessary from the city to harvest trees outside sensitive lands. If the city is right about that, the applicant in this case could remove all of the trees in the area proposed for development and then submit the application, thereby avoiding any requirement to produce a tree plan for that area of the property. If that is true, there may be a loophole in the city's tree removal ordinance that in some circumstances may effectively eviscerate the TCDC 18.390.030 requirement for a tree plan and mitigation. Even if the applicant could take advantage of that loophole, as far as we know it has not done so, and the trees remain on the area of the property to be developed.

It is also important to note that the possibility that the applicant in this case could utilize the loophole to remove the trees before submitting an application does not render the requirement for a tree plan nonsensical. If the portions of a proposed development site that are not sensitive lands are not completely logged before development even though they could be logged, as will frequently be the case for a variety of reasons, there is nothing nonsensical about requiring a tree plan to protect those trees on lands to be developed, during and after the construction phase, and requiring mitigation for the trees that will be removed.

It may be that the tree plan that the applicant has proposed comes far closer to a tree plan for the entire property that complies with TCDC 18.390.030 than petitioner argues. However, without some assistance from the city and intervenor, we cannot conclude that the approved tree plan is consistent with TCDC 18.390.030. **We reject the city's attempt to interpret TCDC 18.390.030 with TCDC 18.390.050(D)(4) to conclude that no tree plan is required for the part of the site that does not qualify as sensitive lands. (Emphasis added)**

This subassignment of error is sustained.

ADDITIONAL FINDINGS AND ANALYSIS

⁹ORS 197.829(1) provides:

"[LUBA] shall affirm a local government's interpretation of its comprehensive plan and land use regulations, unless the board determines that the local government's interpretation:

- "(a) Is inconsistent with the express language of the comprehensive plan or land use regulation;
- "(b) Is inconsistent with the purpose for the comprehensive plan or land use regulation;
- "(c) Is inconsistent with the underlying policy that provides the basis for the comprehensive plan or land use regulation; or
- "(d) Is contrary to a state statute, land use goal or rule that the comprehensive plan provision or land use regulation implements."

In its decision, City Council interpreted its code to require a tree plan only in situations where the applicant was required to obtain a tree cutting permit to remove trees. The City reasoned that because the applicant in this case was not required to obtain a tree cutting permit for the majority of its site as it was in timber deferral, a tree plan for the entire site was not required. A tree plan was submitted for the balance of the site where sensitive lands were present.

LUBA rejected the City's interpretation. Accordingly, the applicant has submitted a tree plan encompassing the entire site and which includes all of the information required in TCDC 18.790.030. The City Forester has reviewed the plan and has agreed that it is acceptable, as noted in his Memorandum of January 24, 2005. The proposed attached tree plan and arborist's report establishes the trees to be saved and those to be cut. As reflected in that plan, there are 893 total trees on site that are larger than 12" diameter. Of those, 115 are deemed hazardous and are not subject to the mitigation requirement. From the remaining 778 net viable trees, 321 are proposed for removal. This constitutes a 59% retention. Since the total number of trees that will be retained is greater than 50%; one-half of the caliper inches being removed is required to be mitigated. A total of 6892 caliper inches are to be removed, so 3,446 caliper inches will be required to be replanted. This may be accomplished by either planting trees on-site, off-site or payment of a fee in lieu. To assure that mitigation is accomplished and that subsequent tree removals are undertaken in accordance with the requirements of this chapter, staff recommends that the following conditions be imposed:

Recommended Conditions of Approval (#53 and #54):

Prior to commencing site work, the applicant shall submit a bond for the equivalent value of mitigation required (3,446 number of caliper inches times \$125 per caliper inch). If additional trees are preserved through the subdivision improvements and construction of houses, and are properly protected through these stages by the same measures afforded to other protected trees on site, the amount of the bond may be correspondingly reduced. Any trees planted on the site or off site in accordance with 18.790.060 (D) will be credited against the bond, for two years following final plat approval. After such time, the applicant shall pay the remaining value of the bond as a fee in lieu of planting.

Prior to issuance of building permits, the applicant/owner shall record a deed restriction to the effect that any existing tree greater than 12" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this decision should either die or be removed as a hazardous tree.

3. ASSIGNMENT OF ERROR 5(J)

LUBA found that the City erred in its decision to grant adjustments to the street improvement standards (number of units on a cul de sac, length of a cul de sac, and curb tight sidewalks on SW 74th) by not providing sufficient findings to respond to the adjustment criteria. The text of their discussion follows:

J. Special Adjustments

The challenged decision grants an adjustment to street improvement sidewalk construction standards to allow a curb-tight sidewalk where SW 74th Avenue crosses the drainageway. The challenged decision also grants two adjustments to allow construction of the proposed cul-de-sac. Those adjustments allow the cul-de-sac to exceed 200 feet in length and to serve 23 houses.¹⁰

¹⁰Under the TCDC, cul-de-sac streets may provide access to no more than 20 houses. The adjustment allows the cul-de-sac to serve 23 houses. Apparently the first 200 feet of the cul-de-sac will provide access to lots 1 and 2 and lots 20-23. The adjustment to the

The city council's decision does not apply the special adjustment criteria set out at TCDC 18.370.020(C)(11), even though the adjustments all appear to be directed at street improvement requirements.¹¹ Instead, the city council applied the special adjustment criteria at TCDC 18.370.020(C)(1).¹² No party questions that choice by the city, and we therefore do not question it either. The city's findings addressing the TCDC 18.370.020(C)(1)(a) requirement that there be special circumstances are set out below:

"* * * The applicant is requesting an adjustment to the 5-foot planter strip along 74th Avenue to reduce 1,100 additional square feet of impact to the drainageway and wetland area. The applicant proposes this curb tight sidewalk for the special circumstance where the development is required to cross the stream. Outside the resource area, the sidewalk will meet the required public street standards.

"Due to the presence of the sensitive lands, the development width of the property makes a looped street unfeasible. Also, because of existing development patterns adjacent to the site, the cul-de-sac could not be extended to the site's east property line. The applicant was able to extend a new public street to the north property line for future connectivity. The length of the cul-de-sac is the primary reason to exceed the 20 home maximum standard on this private street. Because of the special circumstances affecting this property, this criterion has been satisfied." Record 30a.

The city council's findings explaining why the adjustments are necessary for proper design and functioning of the subdivision under TCDC 18.370.020(C)(1)(b) are as follows:

200-foot length limitation is necessary to provide access to lots 3 through 19. Otherwise a loop road would be required and it would appear that such a loop road would almost certainly have to encroach on the wetland and drainage area that is protected under the proposed plan.

¹¹TCDC 18.370.020(C)(11) provides:

"Adjustments for street improvement requirements (Chapter 18.810). By means of a Type II procedure, as governed by Section 18.390.040, the Director shall approve, approve with conditions, or deny a request for an adjustment to the street improvement requirements, based on findings that the following criterion is satisfied: Strict application of the standards will result in an unacceptably adverse impact on existing development, on the proposed development, or on natural features such as wetlands, steep slopes or existing mature trees. In approving an adjustment to the standards, the Director shall determine that the potential adverse impacts exceed the public benefits of strict application of the standards."

¹²TCDC 18.370.020(C)(1) provides:

"Adjustments to development standards within subdivisions (Chapter 18.430). The Director shall consider the application for adjustment at the same time he/she considers the preliminary plat. An adjustment may be approved, approved with conditions, or denied provided the Director finds:

- "a. There are special circumstances or conditions affecting the property which are unusual and peculiar to the land as compared to other lands similarly situated;
- "b. The adjustment is necessary for the proper design or function of the subdivision;
- "c. The granting of the adjustment will not be detrimental to the public health, safety, and welfare or injurious to the rights of other owners of property; and
- "d. The adjustment is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this title."

The adjustment criteria at TCDC 18.370.020(C)(1) in some respects resemble traditional variance criteria, which are exceedingly difficult to satisfy. *Lovell v. Independence Planning Comm.*, 37 Or App 3, 586 P2d 99 (1978); *Wentland v. City of Portland*, 22 Or LUBA 15, 24-26 (1991); *Patzkowski v. Klamath County*, 8 Or LUBA 64, 70 (1983). However as the Court of Appeals made clear in *deBardelaben v. Tillamook County*, 142 Or App 319, 325-26, 922 P2d 683 (1996), LUBA is to extend appropriate deference to the city's interpretations of its own adjustment criteria. Under *Church v. Grant County*, the city is not entitled to the highly deferential standard of review that was required at the time *deBardelaben* was decided, but it still is entitled to appropriate deference under ORS 197.829(1) and *Church*.

"The adjustment request for the curb tight sidewalk is necessary to reduce impacts to the drainageway and wetlands. The adjustment for the cul-de-sac length is necessary to provide access to Lots 3-19 and to allow a turn around for emergency equipment and garbage trucks. The adjustment to allow more than 20 units to access the cul-de-sac is a result of both the length of the resulting cul-de-sac, and the desire to eliminate the need for a second redundant access serving three lots. Providing this second access would have reduced the amount of area available for buildings, with the result of eliminating the lots being served by it. Therefore, this criterion is satisfied." Record 30a-31.

The city council's finding regarding the TCDC 18.370.020(C)(1)(c) public health safety and welfare criterion is as follows:

"The Fire District has reviewed the proposed street design and has provided no objections to these adjustments. There is no evidence that these adjustments will be detrimental to the health safety or welfare to other property owners surrounding the site." Record 31.

Finally, the city council's finding regarding the TCDC 18.370.020(C)(1)(d) extraordinary hardship standard is as follows:

"Due to existing development patterns, the natural resources, and the shape of the site, the adjustment is necessary for the applicant to make use of substantial property rights. The applicant is proposing to build within the density prescribed for this site. The criteria for granting these adjustments to the street design, cul-de-sac length, and sidewalk standards have been satisfied." *Id.*

Petitioner assigns error to the city's findings concerning the TCDC 18.370.020(C)(1)(c) public health safety and welfare criterion and the TCDC 18.370.020(C)(1)(d) extraordinary hardship standard. We have set out the other city findings, on the first two criteria, because they have some bearing on the last two criteria.

Petitioner first contends that, contrary to the city's finding that there is no evidence that these adjustments will be "detrimental to the health safety or welfare to other property owners surrounding the site," there is a great deal of evidence to that effect. The city appears to be correct that some of the evidence cited by petitioner relates more to the development itself rather than the three adjustments that are at issue under this subassignment of error. **However, some of the evidence cited by petitioner clearly does address this criterion, and the city's finding that there is no such evidence is in error.** (Emphasis added) This part of subassignment of error 5(J) is sustained.

Petitioner also argues the city's finding that the adjustments are needed to preserve a substantial property right due to extraordinary hardship that would result from strict compliance with the adjusted standards are inadequate and are not supported by the evidentiary record.

Reading the city's findings concerning TCDC 18.370.020(C)(1)(a) and (d) together, we reject petitioners challenge to the findings regarding the cul-de-sac adjustments under TCDC 18.370.020(C)(1)(d). It is reasonably clear from those findings that if the applicant were forced to provide access to the proposed lots without the adjustments, much more of the property would have to be developed with roads, at a significant additional expense and with the potential loss of lots that would otherwise be approvable. It is reasonably clear that the city considers those impacts to constitute a hardship. We cannot say the city misinterpreted TCDC 18.370.020(C)(1)(d) or that its findings are inadequate to demonstrate that the cul-de-sac adjustments comply with that criterion.

The city's findings concerning TCDC 18.370.020(C)(1)(d) and the curb tight sidewalk are a different story. Although it appears that granting the adjustment would serve the desirable purpose of minimizing fill in

the wetland and drainage area, the city does not explain why it would be a hardship on the applicant to construct a conforming sidewalk.¹³

To summarize, the city's findings concerning TCDC 18.370.020(C)(1)(c) are inadequate for all three adjustments. The city's findings concerning TCDC 18.370.020(C)(1)(a) and (d) are sufficient to demonstrate that the cul-de-sac adjustments comply with TCDC 18.370.020(C)(1)(d). The city's findings concerning TCDC 18.370.020(C)(1)(d) are inadequate to demonstrate that the curb tight sidewalk adjustment satisfied that criterion.

ADDITIONAL FINDINGS AND ANALYSIS

The City Council addressed the applicant's requested adjustment request under TCDC 18.370.020(C)(1), which is a general adjustment standard and not under TCDC 18.370.020(C)(11), which is specific to street improvements. The applicant has acknowledged that in its application material it too addressed the requested adjustments under the general standard as opposed to the specific standard. In its decision, LUBA concluded that the City's findings related to the health safety and welfare impacts of the three adjustments were insufficient. LUBA also concluded that the extraordinary hardship criterion to allow the curb tight sidewalk had not been sufficiently addressed. Staff asserts that the adjustment for the curb tight sidewalk was not necessary based on the strict criteria in Chapter 18.810, and provides findings for such a conclusion below. Nevertheless, the applicant has provided additional findings related to both the general adjustment standard as well as the specific street adjustment criteria. Staff agrees that the specific criteria related to street improvements are more appropriate to this decision than the more general criteria. Staff therefore believes that the specific criteria of TCDC 18.810.070(C), and 18.370.020(C)(11) apply rather than the general criteria of TCDC 18.370.020(C)(1). In the event that the Council or a reviewing entity take the position that the general criteria apply, findings relating to those criteria are also provided.

Planter Strip Requirement 18.810.070 (C)

A planter strip separation of at least five feet between the curb and the sidewalk shall be required in the design of streets, except where the following conditions exist: there is inadequate right-of-way; the curbside sidewalks already exist on predominant portions of the street; it would conflict with the utilities, there are significant natural features (large trees, water features, etc) that would be destroyed if the sidewalk were located as required, or where there are existing structures in close proximity to the street (15 feet or less) Additional consideration for exempting the planter strip requirement may be given on a case by case basis if a property abuts more than one street frontage.

There is adequate right of way to accommodate the required planter strip, and sidewalks do not yet exist on predominant portions of the street. There are some potential conflicts with utilities, but not on the side where the planter strip is required. There are also no existing structures that would be in such close proximity to the new sidewalk. However, additional large trees and water features would be destroyed if the sidewalk were required to be moved five feet further east into the sensitive lands resource. Staff interprets the term "destroyed" to mean that additional trees would be removed, and additional area within the sensitive resource area would be disturbed by grading activity, vegetation removal and possible stream bank rechanneling. Although it is acknowledged that in some instances, these areas can be restored by the planting of new trees, or through revegetation and redirection of

¹³We note that there is no extraordinary hardship criterion like TCDC 18.370.020(C)(1)(d) in the special adjustment criteria for street improvement standards at TCDC 18.370.020(C)(11). See n 48. However, as previously noted, the city applied the special adjustment criteria at TCDC 18.370.020(C)(1) rather than the TCDC 18.370.020(C)(11) criteria.

the stream channel, it is the general preference and the expressed intent of this exemption to avoid the impact in the first place.

Specific Adjustment Criteria 18.370.020(C)(11)

"Strict application of the standards will result in an unacceptably adverse impact on existing development, on the proposed development, or on natural features such as wetlands, steep slopes or existing mature trees. In approving an adjustment to the standards, the Director shall determine that the potential adverse impacts exceed the public benefits of strict application of the standards."

Findings for Length of Cul de Sac (TCDC 18.810.030(L))

Strict application of the 200 foot limitation on cul de sac length would result in an unacceptable adverse impact on the proposed development and natural features for the following reasons. Preexisting development surrounds a majority of the site to the north and east. Ash Creek cuts across the property from the southeast to the northwest. The only undeveloped area borders the 968 foot deep site for the first 490 feet. The last 478 feet could either be served by a long cul de sac, or a loop street. A loop street could not return to SW 74th without a high degree of encroachment into the stream and wetland resource. This near doubling of pavement would serve no additional units, and would likely result in the loss of the two lots on the south side of the stream. The other possible option would be to propose a street that would extend through the developed properties and ultimately connect with an adjacent public street. This would have adverse impacts upon existing development however. As described previously, there are no impacts to the public health safety or welfare from granting such an adjustment, so it follows that the impacts raised here exceed any benefit to the public from a strict adherence to this standard.

Findings for Number of Units served By a Cul de Sac

Strict application of the 20 unit maximum limitation on a cul de sac would result in an unacceptable adverse impact on the proposed development and natural features for the following reasons. Similar to the findings for the length of the cul de sac, it follows that with a cul de sac of this length, the number of units served by it will exceed the maximum allowed. In this case, there are three additional units on the private cul de sac. By strictly complying with this standard, the applicant would either have to lose three lots, an adverse impact on the proposed development, or reconfigure the through public street to accommodate the three additional units. Staff examined the future streets plan to assess what impact would result if the public street in Ash Creek Estates were extended to encompass the three additional lots presently on the cul de sac. Staff found that if the street were extended to encompass the three additional units, the extension of the public street north would either not align with SW Shady Place (thus requiring an adjustment to street spacing) or would not meet geometric curve requirements to make the alignment (thus requiring an adjustment to street improvement standards), or would need to terminate in a second cul de sac (thus requiring further adjustments to cul de sac length and number of units served). As noted previously, staff found that safety will not be impacted by the three additional units as the cul de sac street and intersection is in all other manners conforming with design requirements and capable of handling the additional vehicle trips. Also, TVF&R has determined that length does not affect safety with respect to the number of lots to be served by a cul-de-sac. The public welfare is moreover unaffected by the three additional houses on this cul de sac since the standard is intended to limit the use of lengthy culs-de sac and promote connectivity and transportation options. In this case, there are no available points to connect to, apart from what is already proposed by the future street plan. The existing development pattern and presence of resources prevent the development from complying with the block length standards. Accordingly, there are only two options to access the eastern lots in the proposed subdivision: one is a cul-de-sac and one is a looped street within the subdivision. A looped street would have to be constructed in environmentally sensitive land and would require significant excavation and/or fill.

With the proposed cul de sac, preservation of the stream bed and stormwater conveyance system will be achieved. This will serve to benefit the general welfare of the public at large. Therefore, staff finds that the potential adverse impacts exceed the public benefits of strict application of the standards.

Findings for Curb Tight Sidewalk TCDC 18 810 030(L)

Strict application of the 5 foot wide planter strip requirement would result in an unacceptable adverse impact on the proposed development and natural features for the following reasons. If a 5-foot planter strip was required, then an approximate 1,100 additional square feet of impact to the drainageway and wetland areas would occur. While this would not have an adverse impact on existing development, it would have some impact to the proposed development in terms of additional landform disturbance and cost. This would also certainly have an additional adverse impact to existing natural features including the stream, wetlands, and likely additional trees. The public benefit of a planter strip is the additional aesthetic amenity of breaking the hardscape mass. The presence of the large open stream channel behind the road and sidewalk will serve a similar purpose. Therefore, staff finds that the potential adverse impacts exceed the public benefits of strict application of the standards.

General Adjustment Criteria 18.370.020(C)(1)

"c. The granting of the adjustment will not be detrimental to the public health, safety, and welfare or injurious to the rights of other owners of property"

Findings for Length of Cul de Sac (TCDC 18.810.030(L))

Granting the requested adjustment will not be detrimental to the public health, safety and welfare of the public. Nor will it be injurious to the rights of other property owners.

The length of a cul-de-sac is a planning issue related to an attempt to geometrically control block sizes from becoming too long. This standard allows continuity of blocks without having long dead-end streets affecting block sizes. The applicant's engineer has evaluated this issue as part of a team whose responsibility it is to evaluate the methods set by Metro to control block geometry to increase connectivity. By limiting the length of cul de sacs, developers are encouraged to provide more through streets, thereby enhancing connectivity. This enhanced welfare is balanced by increased through traffic which may disturb residents. From a safety standpoint, culs-de-sac are vulnerable from the standpoint of only having one available ingress/egress. In certain situations, this access could become blocked preventing residents access to or from their homes. This is also balanced from a public safety perspective by the fact that culs-de-sac are more defensible spaces from burglary, and are generally less prone to break-ins and vandalism. The length of a cul de sac has no bearing on public health. Additionally, neither the Tigard Police nor TVF&R raised any safety concerns over the length of the proposed cul-de-sac. Extending the length of the cul-de-sac reduces the number of intersections and the safety risks associated with intersections.

Opponents testified generally that the adjustments allowing a longer cul-de-sac that would serve more than 20 residences would increase the amount of traffic and nearby streets and then concluded with no further evidence that an increase in traffic will automatically result in decreased safety. The City finds that the amount of traffic is a function of the number of proposed units, not the arrangement of streets. It may be the case that more traffic will use the single point of access, than if there were two entries into the street, but the net difference from a conforming cul de sac is approximately 30 trips per day (see the following findings related to 3 extra units on the cul de sac). This limited number of additional vehicles that will result from the adjustments as opposed to the development itself will not automatically result in decreased safety as the streets within and adjacent to the proposed subdivision are capable of handling the full amount of traffic from this development.

Moreover, when the property to the north is developed, a new street will connect to the proposed subdivision and serve to offset the traffic impact at SW 74th and the Ash Creek Estates public street intersection.

Findings for Number of Units served By a Cul de Sac

In examining the detrimental impacts to the public health, safety, and welfare, it is important to consider that a conforming cul de sac is limited to 20 units. The subject application represents an increase of 3 units. Many of the findings presented previously with regard to the length of the cul de sac are still relevant to these findings. However this request will result in a net increase of approximately 30 vehicle trips per day moving through the intersection of the public street and private cul de sac. There has been no evidence to suggest that the public health will be impacted by this additional traffic, as the total number of units is still within the permitted range of density on the site. In evaluating injury to the rights of other owners of property, the only adjacent property that may be affected by the proposed addition of 3 lots on the cul de sac is tax lot 200 (immediately north of the subject site). Staff examined the future streets plan to assess what impact would result if the public street in Ash Creek Estates were extended to encompass the three additional lots presently on the cul de sac. Staff found that if the street were extended to encompass the three additional units, the extension of the public street north would either not align with SW Shady Place (thus requiring an adjustment to street spacing) or would not meet geometric curve requirements to make the alignment (thus requiring an adjustment to street improvement standards), or would need to terminate in a second cul de sac (thus requiring adjustments to cul de sac length and number of units served). With the requested adjustment, the property rights of the adjacent owner are preserved. Staff found that safety will not be impacted by the three additional units as the cul de sac street and intersection is in all other manners conforming with design requirements and capable of handling the additional vehicle trips. Also, TVF&R has determined that length does not affect safety with respect to the number of lots to be served by a cul-de-sac. TVF&R makes the determination of whether the number of lots poses a safety concern. According to Eric McMullin, TVF&R requires two (2) accesses for safety when more than 25 residential houses are on a street. Here, that standard is met because only 23 houses will be served. The public welfare is moreover unaffected by the three additional houses on this cul de sac since the standard is intended to limit the use of lengthy culs-de sac and promote connectivity and transportation options. In this case, there are no available points to connect to, apart from what is already proposed by the future street plan. The existing development pattern and presence of resources prevent the development from complying with the block length standards. However, where the block length standards incorporated an exemption for these types of constraints, the cul de sac standards did not. Moreover, due to these prior development patterns, there is no way to connect the private street serving the lots to adjacent streets. Accordingly, there are only two options to access the lots in the proposed subdivision: one is a cul-de-sac and one is a looped street within the subdivision. A looped street would have to be constructed in environmentally sensitive land and would require significant excavation and/or fill. With the proposed cul de sac, preservation of the stream bed and stormwater conveyance system will be achieved. This will serve to benefit the general welfare of the public at large. Therefore, staff finds no basis to determine any detriment will occur to the public health, safety, or welfare nor does staff find that there is any injury to neighbors as a result of allowing the three additional units on this cul de sac. No additional conditions are warranted in this case.

Findings for Curb Tight Sidewalk TCDC 18 810 030(L)

Curb tight sidewalks in the area proposed will not be detrimental to the public health, safety and welfare or injurious to the rights of other property owners. (The curb tight sidewalk can be considered safe because the area behind the sidewalk has a flat spot which allows pedestrians to keep to the outside while walking.) Curb tight sidewalks are used often and are an alternate location in many

similar public streets throughout the city. This is not a safety concern. Instead, this detail is used where only a few curb cuts are proposed. Planting strips provide for street furniture and places to put mailboxes, power poles, streetlights, telephone pedestals, and power pedestals. This area does not have many of these features. In addition, as discussed above, the traffic in the area of the proposed adjustment will be traveling relatively slowly due to the topography of the road. With a normal sized sidewalk, there will not be pedestrian/vehicle conflicts. The curb-tight sidewalks result in less impact to the stream, and a healthy environment contributes to public health.

"c. The adjustment is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this title.

Findings for Curb Tight Sidewalk TCDC 18 810 030(L)

Without granting the adjustment, the applicant would be required to amend the Division of State Lands and Army Corps joint wetland permit. One aspect these agencies seek in wetland fill/encroachment permits is minimization of disturbance to the resource. It is conjecture to speculate that the applicant would not be able to obtain such an amendment to their permit; however, it is important to consider the possibility. Without the DSL/Army Corps approval, the project would not be allowed to proceed, depriving the applicant of the ability to develop the property at the allowed density. The other hardship that would be encountered is the additional cost associated with either additional fill, or larger retaining walls. Since the value of the exaction for the roadway stream crossing is already disproportionate, additional costs placed on this crossing result in an exceeding hardship on the applicant. The applicant would therefore be denied the rights to develop his property within the normal limits of takings law.

As the findings for granting the adjustments have been met, no additional conditions of approval are warranted.

4. ASSIGNMENT OF ERROR 5(K)

Lastly, LUBA found that since there had been no tree plan filed to establish the methods and extent of tree protection requirements, it was premature to determine whether sufficient protection had been afforded to plant materials. The text of their discussion follows:

K. Landscaping

One of the specific planned development criteria is TCDC 18.350.100(B)(3)(g)(1).¹⁴ Petitioner contends that the city erred in counting the 44 percent of the site that will be included in the open space and drainage tract on the site, which will be left in its current undeveloped state, in applying the TCDC 18.350.100(B)(3)(g)(1) landscaping requirement. Petitioner contends that TCDC 18.350.100(B)(3)(g)(1) requires more proactive landscaping efforts on the part of the applicant.

The city's interpretation of TCDC 18.350.100(B)(3)(g)(1) to allow the open space area that is to be left in its natural state to be counted toward the TCDC 18.350.100(B)(3)(g)(1) 20% landscaping requirement is implicit. Record 29. The city contends that it is a sustainable interpretation under ORS 197.829(1) and *Church*. We agree with the city.

¹⁴TCDC 18.350.100(B)(3)(g)(1) imposes the following requirement:
Residential Development: In addition to the requirements of subparagraphs (4) and (5) of section a of this subsection, a minimum of 20 percent of the site shall be landscaped[.]”

Petitioner also cites TCDC 18.745.030(E) and TCDC 18.350.100(B)(3)(a)(5) and argues that the applicant's landscape plan fails to protect existing vegetation "as much as possible" or replace trees.¹⁵ **The city does not respond to petitioner's contention concerning preservation of vegetation during construction under TCDC 18.745.030(E).** Accordingly, we sustain that part of subassignment of error 5(K). (Emphasis added). Petitioner's contention regarding TCDC 18.350.100(B)(3)(a)(5) is not clear. We have already sustained petitioner's subassignment of error 5(I). Until that deficiency is considered by the city on remand, it is premature to consider whether there is any obligation to replace any trees in the area to be developed, beyond the replacement trees that are already proposed.

This subassignment of error is sustained in part.

ADDITIONAL FINDINGS AND ANALYSIS

LUBA had found that since the applicant had not prepared a tree plan, there was inadequate evidence to evaluate the petitioner's claim that vegetation was not being protected. The applicant has submitted the required tree plan, including a protection program. Apart from the areas that will be disturbed to construct the infrastructure (sewer, water, storm drainage, streets, etc.) and the lots that will be graded for soil stability and proper drainage, the remainder of the site will be required to be protected from disturbance. The applicant will be required to erect protection fencing around each tree or group of trees to be retained. To ensure that the remaining vegetation is protected as much as possible, the following conditions should be required.

Recommended Conditions of Approval (#55, 56, 57, 58):

Prior to commencing any site work, the applicant shall submit construction drawings that include the approved Tree Removal, Protection and Landscape Plan. The "Tree Protection Steps" identified in Teragan & Associates Letter of November 19, 2004 shall be reiterated in the construction documents. The plans shall also include a construction sequence including installation and removal of tree protection devices, clearing, grading, and paving. Only those trees identified on the approved Tree Removal plan are authorized for removal by this decision.

Prior to commencing any site work, the applicant shall establish fencing as directed by the project arborist to protect the trees to be retained. The applicant shall allow access by the City Forester for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.

Prior to final plat approval, the applicant shall ensure that the Project Arborist has submitted written reports to the City Forester, at least, once every two weeks, from initial tree protection zone (TPZ) fencing installation, through site work, as he monitors the construction activities

¹⁵TCDC 18.745.030(E) provides:

"Protection of existing vegetation. Existing vegetation on a site shall be protected as much as possible.

"1. The developer shall provide methods for the protection of existing vegetation to remain during the construction process; and
"2. The plants to be saved shall be noted on the landscape plans (e.g., areas not to be disturbed can be fenced, as in snow fencing which can be placed around individual trees).

TCDC 18.350.100(B)(3)(a)(5) provides:

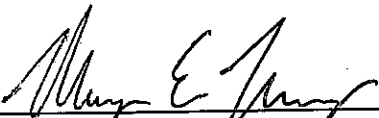
"Trees preserved to the extent possible. Replacement of trees is subject to the requirements of Chapter 18.790, Tree Removal."

and progress. These reports should include any changes that occurred to the TPZ as well as the condition and location of the tree protection fencing. If the amount of TPZ was reduced then the Project Arborist shall justify why the fencing was moved, and shall certify that the construction activities to the trees did not adversely impact the overall and long-term health and stability of the tree(s). If the reports are not submitted or received by the City Forester at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan is not being followed by the contractor, the City shall stop work on the project until an inspection can be done by the City Forester and the Project Arborist. This inspection will be to evaluate the tree protection fencing, determine if the fencing was moved at any point during construction, and determine if any part of the Tree Protection Plan has been violated.

Prior to issuance of building permits, the applicant shall submit site plan drawings indicating the location of the trees that were preserved on the lot, location of tree protection fencing, and a signature of approval from the project arborist regarding the placement and construction techniques to be employed in building the house. All proposed protection fencing shall be installed and inspected prior to commencing construction, and shall remain in place through the duration of home building. After approval from the City Forester, the tree protection measures may be removed.

SECTION VII. CONCLUSION

In conclusion, the City asserts that the applicant has adequately responded to the errors identified by LUBA, and has supplemented the record with additional information and evidence with which to evaluate the findings. Staff concurs with the applicant on these findings, and has recommended several additional conditions of approval to ensure that these standards and practices are implemented as part of this final decision. Staff therefore recommends approval of the Ash Creek Estates Subdivision, case file SUB2003-00010/ ZON2003-00003/ PDR2003-00004/ SLR2003-00005/ VAR2003-00036/ VAR2003-00037.



PREPARED BY: Morgan Tracy
Associate Planner

January 25, 2005
DATE

APPROVED BY: Dick Bewersdorff
Planning Manager

January 25, 2005
DATE



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

CHRISTOPHER P. KOBACK
Direct (503) 778-5382
chriskoback@dwt.com

SUITE 2300
1300 SW FIFTH AVENUE
PORTLAND, OR 97201-5682

TEL (503) 241-2300
FAX (503) 778-5299
www.dwt.com

November 15, 2004

Morgan Tracey
City of Tigard
13125 S.W. Hall Blvd.
Tigard, OR 97223

Re: **2129 Ash Creek Estates PUD**
Justification For Items Identified in LUBA Remand

Dear Mr. Tracey:

In a decision dated August 20, 2004, the Land Use Board of Appeals ("LUBA"), remanded the City's decision approving Windwood Construction's application for a planned unit development named Ash Creek Estates. LUBA's decision specified three instances where it found the City's findings insufficient. In this letter, Windwood Construction is providing the City with additional information and evidence related to those findings.

FINDINGS RELATED TO VERTICAL SAG CURVE (TCDC 18.810.020(B))

S.W. 74th Avenue along the western border of the property is currently unimproved. The City is requiring that Windwood make certain improvements to S.W. 74th as part of its approval. Windwood does not object to the City's requirement. However, due to the topography and the existence of a stream, the improvements to S.W. 74th will result in a fairly steep sag curve and a corresponding crest curve. There are standards that define how steep sag and crest curves can be at various speeds. The steepness of the curves is expressed as a "K" value. For example, at a speed of 25 mph, the typical standards require a vertical sag "K" value of 13.4. In this case, the speed limit on S.W. 74th is 25mph. To achieve a "K" value of 13.4, Windwood would have to place a significant amount of fill in S.W. 74th to make the sag curve more shallow and the crest curve lower.

During the hearing process, Windwood provided evidence that significant fill would cause negative impacts to the resources adjacent to S.W. 74th and would create the possibility of damaging a water main under the street. Specifically, prior to Windwood's application, the City of Tualatin constructed a 36" supply line under the creek within the S.W.

74th Avenue right-of-way. In order for this line to be maintainable, the amount of earth over the line must be minimized. A 25 mile per hour design would create fills greater than 35 feet deep. This would make failures of the line extremely difficult to reach and repair, and also make a large failure have catastrophic results.

Also the fills would result in impacts to the creek, which would include removing a meander in the creek that would result in too much impact to the environment and the removal of more large trees in the sensitive area.

Windwood's consultants considered using a bridge as opposed to fill. The consultants' conclusion was that a bridge would result in an unmaintainable water line that could not be repaired or maintained under the bridge deck and would be much too expensive to construct and maintain.

Relocating the waterline is not a viable option either since it would create too much interruption in service to the City of Tualatin and would increase the difficulty of maintaining the line by placing it in the waterway

As Windwood previously presented, allowing for a lower speed limit is the only reasonable solution to the waterline construction and maintenance issue. At 15 mph, Windwood could make the required improvements using only 21.63 ft. of fill. While that means that any repair will still require some excavation, it is much less than what is required if the sag curve is designed at 25 mph.

Accordingly, Windwood proposed to lower the speed limit in the area of the sag curve to 15 mph. At that speed the sag curve "K" factor is 5. Windwood could improve S.W. 74th to meet that standard without significant fill. The City agreed with Windwood's proposal and, in the final findings, stated as follows:

The applicant also requested that the speed limit be reduced to 15 mph in the section where the S.W. 74th Avenue crossing will occur. This speed limit was accepted by the City of Tigard Engineer. The city of Tigard standards are met by a 15 mph vertical curve design to a "K" value of greater than 5 (ASSHTO).

LUBA declared the City's finding to be lacking, concluding: "The findings simply say the City engineer has accepted the proposal. Neither the city's findings nor the response brief identify any place in the record that explains the city engineer's reasoning in support of the lower "K" value or the city engineer's authority to approve deviations from the adopted "K" values. Without explanation, we must sustain this subassignment of error."



Windwood believes that there is an adequate explanation for the city engineer's authority and ample reasons for exercising that authority to deviate from the basic standards in the City's code.

Section B (City of Tigard Standard Specifications) reads: "The City Engineer shall establish standard specifications consistent with the application of engineering principles." The City's Public Improvement standards are based on ASSHTO standards and standards of Washington County. The preface to the City's design standards states: "The form has been kept brief and no attempt has been made to cover all possible situations or to provide detailed explanations." In relation to sag curves and crest curves, the Washington County standards, as set forth in tables, include speeds of less than 25 mph and speeds as low as 15 mph. Because the City's published tables are not intended to be comprehensive and because they are based on Washington County standards, Windwood believes that the city engineer has the authority to approve a design based on a 15 mph speed consistent with Washington County standards. The Washington County table confirms that Windwood's proposed design meets ASSHTO standards since Washington County designs to ASSHTO.

In fact, Windwood's proposed design exceeds Washington County's standards. Washington County's standard for both sag and crest curves require a "K" value of 5.0 at 15 mph, but is based upon the absence of street lights. Windwood's proposed design will result in a "K" value of 5.3 and also incorporates street lights.

In order to clarify the authority to "set" speed limits, Windwood's consultants contacted the State of Oregon. The speed limit is set by the State as 25 miles per hour as the normal speed limit on all residential streets. Where specific sections of streets cannot meet this standard, cities have authorization to provide design exceptions that allow for sections of streets that they are in ownership of to be constructed, reconstructed, or repaired that don't meet the speed limit standards. The State administers design exceptions on its own highways as well. According to the State, design exceptions at the state level are mitigated by using advisory signs as well as other safety measures. Jurisdictions are, therefore, allowed to post special signs and take other measures to safely control traffic.

Below are options that Windwood proposes:

Option 1:

- A. Install "Bump" sign with 15 mph advisory sign below it.
- B. Install "DIP" sign with 15 mph advisory sign below it.

(Place sign in advance of crest or sag to allow safe reaction and deceleration time.)

Option 2: Three Way Stop Intersection

- A. Install a "3-Way Stop" at the intersection of the new public road access to S.W. 74th Avenue.
- B. Install "DIP" sign with 15 mph advisory sign below it.

(Place sign in advance of crest or sag to allow safe reaction and deceleration time.)

Although Option 2 would result in a stop sign on S.W. 74th, which is a through street, this would remove the need to sign the street for 15 miles per hour at the crest since the stop sign will slow traffic to an approach speed of 15 mph at the critical location. Although this would not meet warrants for a "need" by ASSHTO standards, this would be a very effective "legal" mitigation for the crest not meeting speed design standards. These measures would qualify as a mitigation for the sag and crest.

**FINDINGS RELATED TO TREE PLAN
(TCDC 18.390.030)**

In its decision, City Council interpreted its code to require a tree plan only in situations where the applicant was required to obtain a tree cutting permit to remove trees. The City reasoned that because Windwood did not require a tree cutting permit for the majority of its site, a tree plan for the entire site was not required. Windwood did submit a tree plan related to its removal of trees in the environmentally sensitive area of the site because a permit was required to remove trees.

LUBA rejected the City's interpretation. Accordingly, Windwood understands that it is now required to submit a tree plan encompassing the entire site and which includes all of the information required in TCDC 18.390.030. The proposed attached tree plan and arborist's report establishes the trees to be saved and those to be cut. As reflected in that plan, the total number of trees that will be retained is greater than 50%; thus, 50% mitigation is required. This will be accomplished by planting trees on-site or off-site. An in-lieu-of fee will be paid for any trees not planted by site development permit issuance and shall be bonded for until they are planted or the fee paid. Additional trees may be saved during the construction of houses. If trees are saved within the bond period, we would request that the in-lieu-of fee be reduced.

A separate permit will be submitted for tree cutting within the sensitive area pursuant to TCDC 18.790.050.

FINDINGS RELATED TO ADJUSTMENTS

Windwood requested three special adjustments to street improvement and sidewalk construction standards. One adjustment allowed curb tight sidewalks on a small segment of S.W. 74th Avenue. Two of the adjustments allowed a cul-de-sac to exceed 200 feet in length and to serve 23 houses.

The City Council addressed Windwood's requested adjustment request under TCDC 18.370.020(C)(1), which is a general adjustment standard and not under TCDC 18.370.020(C)(11), which is specific to street improvements. Windwood acknowledges that in its application material it too addressed the requested adjustments under the general standard as opposed to the specific standard. In its decision, LUBA concluded that the City's findings related to the requested adjustments was insufficient in a couple of areas. LUBA also noted the difference between the two criteria and suggested that the City could consider the requested adjustments under the standards applicable to street improvements.

Consistent with LUBA's decision, Windwood will discuss its requested adjustments under both standards and, to the extent required, provide additional evidence and information under the general adjustment standards.

1. Adjustments to Streets and Sidewalks Under (TCDC 18.370.020(C)(11)).

Section TCDC 18.370.020(C)(11), the code section that addresses adjustments to street and sidewalk improvements, reads as follows:

Adjustments for the street improvement requirements Chapter 18.810: By means of a Type II procedure, as governed by section 18.390.040, the director shall approve, approve with conditions, or deny a request for an adjustment to the street improvement requirements, based on the findings that the following criterion is satisfied: strict application of the standards will result in an unacceptably adverse impact on the existing development, on the proposed development, or on natural features such as wetlands, steep slopes, or existing mature trees, in approving an adjustment to the standards, the Director shall determine that the potential adverse impacts exceed the public benefits to strict application of the standards.

Chapter 18.810 of the Tigard Development Code, Street and Utility Improvement Standards, applies to both public and private improvements. Windwood believes that under TCDC 18.810.020(D), the adjustment criteria in TCDC 18.370.020(C)(11) applies to all street improvements, whether public or private improvements. Therefore, Windwood believes that said criteria should be used for all three requested adjustments.



a. Response to Curb Tight Sidewalk (TCDC 18.810.030(L)).

S.W. 74th Avenue crosses Ash Creek in a deep draw area. The project normally requires a section of the street with sidewalks separated from the street. Under section 18.810.070(C), planter strips are required between the street and sidewalk, except where the following exists: there are significant natural features (large trees, water features, etc.) that would be destroyed if the sidewalk were located as required. A sidewalk in strict conformance with TCDC 18.810.030(L) will require either filling the stream or increasing the size of a retaining wall already shown on the plan. Larger retaining walls will require significant footings that will encroach into the wetlands. Windwood believes that this type of development will result in an adverse impact on the stream and/or wetlands.

The curb tight sidewalk as proposed along S.W. 74th Avenue reduces the amount of impact to wetlands. Furthermore, insistence on strict application of the standards for sidewalks will not result in a public benefit that exceeds the adverse impacts to the wetlands. Curb tight sidewalks will not increase any danger to pedestrians. Traffic in the area in question will be traveling fairly slow to address the sag curve as discussed above. In addition, the sidewalks will meet the standard for sidewalk widths. Windwood has observed that curb tight sidewalks are not uncommon along other streets in Tigard. Consequently, the negative impact to the stream/wetland exceeds any marginal benefit from requiring a planter strip.

b. Response to Cul-de-sac Longer than 200 Feet (TCDC 18.810.030(L)).

Under TCDC 18.810.030, various limitations apply to cul-de-sacs: (1) they shall be no more than 200 feet long, (2) they shall not provide access to greater than 20 dwelling units, and (3) they shall only be used when environmental or topographical constraints, existing development pattern, or strict adherence to other standards in this code preclude street extension and through circulation. When a cul-de-sac is used, additional standards also apply:

1. All cul-de-sacs shall terminate with a turnaround, Use of turnaround configurations other than circular, shall be approved by the City Engineer;
2. The length of a cul-de-sac shall be measures from the centerline intersection point of the two streets to the radius point of the bulb; and
3. If the cul-de-sac is more than 300 feet long, a lighted direct pathway to and adjacent street may be required to be provided and dedicated to the city.

Due to prior development patterns, there is no way to connect the private street serving the lots to adjacent streets. Accordingly, there are only two options to access the lots in the proposed subdivision: one is a cul-de-sac and one is a looped street within the subdivision. A looped

street would have to be constructed in environmentally sensitive land and would require significant excavation and/or fill. Thus, strict application of City standards would have a negative impact on natural features. Those impacts outweigh any public benefit from strict application of the standards. It would appear to Windwood that the 200-ft. requirement is not a safety standard, but rather a planning device to gain smaller block sizes. Windwood addresses this concept in more detail in its discussion of the general adjustment standards. The Tualatin Valley Fire & Rescue ("TVF&R") has reviewed Windwood's plans and indicated that the design will not negatively affect safety. Their own code allows 25 houses to be served by a single access.

2. Adjustments to Streets and Sidewalks Under TCDC 18.370.020(C)(1)(d).

As discussed above, Windwood will also discuss the requested adjustment in the context of the general adjustment standards. Windwood does not believe the City must get to this analysis in light of the applications of TCDC 18.370.020(C)(11). The criteria for general adjustments is:

Adjustments to development standards within subdivisions (Chapter 18.430). the director shall consider the application for adjustment at the same time he/she considers the preliminary plat. An adjustment may be approved, approved with conditions, or denied provided the Director finds:

- a. There are special circumstances or conditions affecting the property which are unusual and peculiar to the land as compared to other lands similarly situated;
- b. The adjustment is necessary for the proper design or function of the subdivision;
- c. The granting of the adjustment will not be detrimental to the public health, safety, and welfare or injurious to the rights of other owners of property; and
- d. The adjustment is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this title.

The City made findings that as to each of the adjustments Windwood requested, Windwood submitted sufficient evidence to meet each of the above criteria. LUBA disagreed as to some of the City's findings. Specifically, as to the adjustment to the sidewalk standards, LUBA held that the City's finding that the adjustment would not be detrimental to the public



health, safety and welfare or injurious to the rights of other property owners was inadequate. LUBA also held that the City's finding that the requested adjustment was necessary for the preservation and enjoyment of a substantial property right because of extraordinary hardship was insufficient.

As to the two adjustments Windwood requested to the cul-de-sac standards, LUBA held that the City's finding on a single criteria—lack of detriment to public health, safety and welfare—was inadequate.

a. Response to Curb Tight Sidewalk TCDC 18.810.030(L)

If a planter strip was placed pursuant to the City standard in the area where S.W. 74th Avenue crosses the creek, a tall retaining wall would have to be placed at the bottom of the slope to keep from encroaching into the stream. This would create a significant extra cost to an improvement which already exceeds the proportional improvement cost based on the size of the subdivision. Also, the wall would become an expensive item to be maintained by the City. This is an extraordinary hardship on the development and on the City.

Additionally, Windwood has tentatively been allowed by DSL and the Corps of Engineers to construct a culvert rather than a bridge structure because it has been able to demonstrate that it is minimizing the fill across the creek by the use of a curb tight sidewalk. If Windwood is required to construct a planter strip, it may not be able to use the culvert and will be required by the DSL and the Corps of Engineers to construct a bridge. It is an extraordinary hardship for a 29-lot subdivision to build a bridge across the creek to meet the City's road standards. Without this demonstration, the road crossing itself and the ability to develop the property at all was jeopardized. The requirement to build a bridge will not meet the proportionality test. (The curb tight sidewalk can be considered safe because the area behind the sidewalk has a flat spot which allows pedestrians to keep to the outside while walking.)

Curb tight sidewalks in the area proposed will not be detrimental to the public health, safety and welfare or injurious to the rights of other property owners. Curb tight sidewalks are used often and are an alternate location in many similar public streets throughout the city. This is not normally a safety concern. Instead, this detail is used where only a few curb cuts are proposed. Parking strips provide for street furniture and places to put mailboxes, power poles, streetlights, telephone pedestals, and power pedestals. This area does not have many of these features. In addition, as discussed above, the traffic in the area of the proposed adjustment will be traveling relatively slowly due to the topography of the road. With a normal sized sidewalk, there will not be pedestrian/vehicle conflicts.

b. Response to Cul-de-sac Length (TCDC 18.810.030(L)) (Hardship).

Granting the requested variance will not be detrimental to the public health, safety and welfare of the public. Nor will it be injurious to the rights of other property owners.



TVF&R has determined that length does not affect safety. With respect to the number of lots to be served by a cul-de-sac, Windwood understands that TVF&R makes the determination of whether the number of lots poses a safety concern. According to Eric McMullin, TVF&R requires two (2) accesses for safety is when more than 25 residential houses are served by one access. Here, that standard is met because only 23 houses will be served.

The length of a cul-de-sac is a planning issue related to an attempt to geometrically control block sizes from becoming too long. This standard allows continuity of blocks without having long dead-end streets affecting block sizes. Windwood's consultants have evaluated this issue as part of a team whose responsibility it is to evaluate the methods set by Metro to control block geometry to increase connectivity. This cul-de-sac length is probably a response to developing standards utilized by local cities and counties in the Metro region as part of a Metro planning study. Short cul-de-sacs were recommended as a way to serve internal lots in blocks with square patterns and cities and counties have implemented these standards. In actuality, the long cul-de-sac provides safety to residents of the cul-de-sac and surrounding neighbors by making the exit of robbers who have broken into houses more difficult. Police can secure an exit by blocking automobile exiting. Additionally, the Windwood's knowledge, TVF&R raised no safety concerns over the length of Windwood's proposed cul-de-sac.

Opponents of Windwood's proposal testified generally that the adjustments allowing a longer cul-de-sac that would serve more than 20 residences would increase the amount of traffic and nearby streets and then concluded with no further evidence that an increase in traffic will automatically result in decreased safety. Windwood disagrees with that conclusion. The limited number of additional vehicles that will result from the adjustments as opposed to the development itself will not automatically result in decreased safety. Without some specific evidence of how this small increase in traffic will negatively impact safety, Windwood believes the City should reject the opponents' argument.

Very truly yours,

Davis Wright Tremaine LLP

A handwritten signature in black ink that reads 'Christopher P. Koback'. The signature is fluid and cursive, with the first name 'Christopher' being the most prominent part.

Christopher P. Koback

CPK/lkt

cc: Dale Richards, Windwood Construction
Gary Firestone

JAN 14 2005

CITY OF TIGARD
PLANNING/ENGINEERING

Teragan & Associates, Inc.

Terrence P. Flanagan

Arboricultural Consultants

Friday, November 19, 2004

Dale Richards
Winwood Contraction
12655 SW North Dakota St.
Tigard, OR 97223

RE: Tree Plan for Ash Creek Estates

Summary

There are a total of 778 trees greater than 12 inches in diameter on the site. 115 of those are considered to be dead, diseased or in such poor health or structural condition to not be able to survive long term. 457 of the trees greater than 12 inches diameter are planned for retention and 321 are trees planned for removal, which equals retention of 59 % of the trees being retained on site, over 50% of the total number of trees on site.

There are a total of 17,029 tree diameter inches on the site of viable trees greater than 12 inches in diameter. 6,892 diameter inches are to be removed. Given that 59 % of the healthy trees on site are to be retained; only 50% of the tree inches that are to be removed need to be mitigated for per section 18.790.030 of the City of Tigard code. This equates to the need to mitigate for 3,446 inches of tree diameter. Mitigation will be done on site and other property owned by the developer.

Limiting Conditions and Assumptions

The survey of the trees on the site was completed by the survey crew of Kurahashsi & Associates, Inc. Teragan & Associates, Inc. evaluated the located trees for; specie, size, health and structure. Teragan and Associates also checked for missed trees and worked with the survey crew to locate on the survey the missed trees to complete the tree inventory.

Trees selected for removal were determined by the owner and Kurahashsi & Associates, Inc. The trees to be removed were indicated in the tree inventory spreadsheet that was created by Teragan & Associates, Inc. by Kurahashsi & Associates, Inc. The trees to be removed were also indicated on the survey plan of the property by Kurahashsi & Associates, Inc.

Field Measurements

Please refer to appendix # 2 for the spreadsheet listing the trees over 6 inches in diameter on the site. The spreadsheet lists their diameter size as measured per industry standards, the species and the condition of the trees. Additional comments are included in the spreadsheet if warranted.

Discussion

The trees that are to be removed are due to the necessary grading to prepare the site for road improvements, utility installation, the preparation of lots for home building and other improvements. In order to allow for the greatest flexibility on home design, the individual lots are shown with most trees being removed. It is possible that depending on the final home design that is chosen, some of the trees

3145 Westview Circle • Lake Oswego, OR 97034 • (503) 697-1975 • Fax (503) 697-1976

E-mail: Terry@Teragan.com

Certified Arborist # PN-0120AT

Member, American Society of Consulting Arborists

Ash Creek Estates Subdivision
Tigard, Oregon

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that are shown to be removed will not be. As indicated to me by the engineers on the project, it may be decided at a later date to retain some of the trees on each of the lots. All trees that are to be retained will need to be identified before any site work commences as they will need to be protected during any of the construction phases, including the initial site preparation and grading. Appendix # 1 outlines all the necessary steps that will need to be taken to protect the trees. It will be important when a decision to retain trees on site that the project arborist be consulted to insure that the planned use for the area will not impact the trees that are retained.

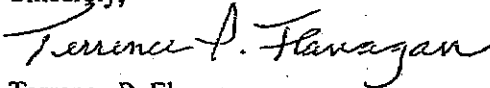
Tree protection fencing should be installed before any site work is started on the site. Where tree protection fencing may be in the way to remove nearby trees, it can be temporarily removed to allow for the falling of the trees as long as no damage to the remaining trees will occur or that no wheeled or tracked equipment is allowed within the tree protection area to remove the tree debris or logs.

Conclusion

Due to the planned removal of many of the trees off the site, mitigation for the 6,892 tree diameter inches will have to be completed. The mitigation that is proposed by the owner is not detailed in this tree plan but in another part of the application.

Please call if you have any questions or concerns regarding the information in this report.

Sincerely,



Terrence P. Flanagan
Member, American Society of Consulting Arborists
Board Certified Master Arborist #PN-0120BT

Enclosures: Appendix # 1 - Tree Protection Steps
Appendix # 2 - Tree Species Inventory

Ash Creek Estates Subdivision
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Appendix # 1

Tree Protection Steps

It is critical that the following steps be taken to ensure that the trees that are to be retained are protected.

Before Construction Begins

1. Notify all contractors of the tree protection procedures. Have all sub contractors sign memoranda of understanding regarding the goals of tree protection. For successful tree protection on a construction site all contractors must know and understand the goals of tree protection. It can only take one mistake with a misplaced trench or other action to destroy the future of a tree.
2. Hydraulically deep root fertilize trees to aerate the soil, deep root water the tree and fertilize it with a balanced fertilizer before construction.
3. Fencing
 - a. Establish tree protection fencing around each tree or grove of trees to be retained.
 - b. The fencing is to be put in place before the ground is cleared in order to protect the trees and the soil around the trees from any disturbance at all.
 - c. Fencing is to be placed at the edge of the root protection zone. Root protection zones are to be established by the project arborist based on the needs of the site and the tree to be protected.
 - d. Fencing is to consist of 6-foot high metal fencing tied to steel posts driven into the ground or free standing with the proper support to prevent it from being moved by contractors, sagging or falling down. Plastic orange fencing may be acceptable if properly support to prevent it from sagging and acceptable by the local jurisdiction.
 - e. Fencing is to remain in the position that is established by the project arborist and not to be moved without written permission from the project arborist.
4. Signage
 - a. All tree protection fencing should have signage explaining the purpose of the fence. An example would be as follows;

Tree Protection Area
Do Not Enter
Without Written Approval From
Project Arborist or Property Owner
Teragan & Associates
503-803-0017
 - b. Signage should be place as to be visible from all sides of a tree protection area and spaced every 75 feet.

Ash Creek Estates Subdivision
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During Construction

1. Protection Guidelines Within the Root Protection Zone
 - a. No traffic shall be allowed within the root protection zone. No vehicle, heavy equipment, or even repeated foot traffic.
 - b. No storage of materials including but not limiting to soil, construction material, or waste from the site.
 - i. Waste includes but is not limited to concrete wash out, gasoline, diesel, paint, cleaner thinners, etc.
 - c. Construction trailers are not to be parked/placed within the root protection zone without written clearance from project arborist.
 - d. No vehicles shall be allowed to park within the root protection areas.
 - e. No activity shall be allowed that will cause soil compaction within the root protection zone.
2. The trees shall be protected from any cutting, skinning or breaking of branches, trunks or roots.
3. Any roots that are to be cut from existing trees, the project consulting arborist shall be notified to evaluate and oversee the proper cutting of roots with sharp cutting tools. Cut roots are to be immediately covered with soil or mulch to prevent them from drying out.
4. No grade change should be allowed within the root protection zone.
5. Any necessary deviation of the root protection zone shall be cleared by the project consulting arborist.
6. Provide water to trees during the summer months. Tree(s) will have had root system(s) cut back and will need supplemental water to overcome the loss of ability to absorb necessary moisture during the summer months.
7. Any necessary passage of utilities through the root protection zone shall be by means of tunneling under roots.

After Construction

1. Carefully landscape in the area of the tree. Do not allow trenching within the root protection zone. Carefully plant new plants within the root protection zone. Avoid cutting the roots of the existing trees.
2. Do not plan for irrigation within the root protection zone of existing trees unless it is drip irrigation for a specific planting or cleared by the project arborist.
3. Provide for adequate drainage of the location around the retained trees.
4. Pruning of the trees should be completed as one of the last steps of the landscaping process before the final placement of trees, shrubs, ground covers, mulch or turf.
5. Provide for inspection and treatment of insect and disease populations that capable of damaging the retained trees and plants.
6. Trees should be fertilized and inoculated with mycorrhizae treatments if damaged. All other trees should also be evaluated for fertilization need at the end of the project and treated as necessary.

3145 Westview Circle • Lake Oswego, OR 97034 • (503) 697-1975 • Fax (503) 697-1976

E-mail: Terry@Teragan.com

Certified Arborist # PN-0120AT

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	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
2	5001	Western Red Cedar	1	29					Good	Leans West
3	5002	Douglas Fir	1	20					Good	
4	5003	Western Red Cedar	1	20					Good	
5	5004	Western Red Cedar	1	22					Fair	Decay in root at ground level, south/southwest. Suspect heart decay and rot column
6	5005	Western Red Cedar	1	19					Good	
7	5005	Douglas Fir	1	28					Good	
8	5006	Douglas Fir	1	16					Good	Healed wound with odd depression West side at 4 feet above ground level
9	5007	Western Red Cedar	1	15					Good	
10	5008	Western Red Cedar	1	13					Good	
11	5009	Douglas Fir	1	17					Good	
12	5011	Oregon Red Alder					10"		Good	
13	5012	Western Red Cedar	1	18					Good	Wound seam at ground level to 7 feet North side. Suspect rot column
14	5013	Douglas Fir	1	18					Poor	Lost top with new leader forming, high crown, suppressed growth
15	5014	Douglas Fir	1	21					Fair	Cat face East side from 12 feet to 18 feet above ground level from small windfall leaning on trunk.
16	5015	Douglas Fir	1	13					Good	Leans West
17	5015	Western Red Cedar	1	16					Good	
18	5015	Western Red Cedar	1	24					Good	
19	5016	Western Red Cedar	1	32					Good	Leans South
20	5017	Western Red Cedar	1	16					Poor	
21	5018	Western Red Cedar	1	28					Good	
22	5019	Douglas Fir	1	31					Good	High Crown
23	5020	Douglas Fir	1	18					Fair	Struggling
24	5021	Douglas Fir	1	19					Fair	Thin
25	5022	Western Red Cedar	1	20					Fair	
26	5022	Western Red Cedar	1	18					Fair	
27	5023	Western Red Cedar						1	Poor	Broken top, 23 inch dia.
28	5024	Douglas Fir	1	32					Good	Edge tree
29	5025	Western Red Cedar					11		Good	
30	5026	Western Red Cedar	1	20					Good	Edge tree
31	5027	Western Red Cedar	1	23					Fair	Thin canopy
32	5028	Oregon Red Alder					10		Good	
33	5029	Oregon Red Alder	1	12					Good	
34	5030	Western Red Cedar						1	Very Poor	Hazard/habitat tree. Main stem is dead, 45" dia.

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
35	5031	Western Red Cedar	1	18					Good	
36	5032	Western Red Cedar	1	21					Fair	Thinning
37	5033	Western Red Cedar	1	24					Fair	Severe lean Southwest. Broken top.
38	5034	Western Red Cedar	1	20					Good	
39	5035	Oregon Red Alder						1	Very Poor	16" x12 ft cavity in trunk; hazard/habitat, 41" dia.
40	5036	Western Red Cedar	1	13					Poor	Suppressed; leans West
41	5037	Western Red Cedar	1	21					Poor	In decline
42	5038	Western Red Cedar	1	14					Good	
43	5039	Oregon Red Alder	1	28					Poor	Over mature, dead limbs in top. Leans North
44	5040	Western Red Cedar	1	22					Good	Leans South
45	5041	Western Red Cedar	1	24					Fair	4" X 35 ft cavity above ground level with decay. Leans West
46	5042	Western Red Cedar						1	Very Poor	Uprooted/hazard, Leans South 30 degrees from vertical; thin crown, 29" dia.
47	5043	Western Red Cedar						1	Poor	Lost top; cavity, 18" dia.
48	5044	Western Red Cedar	1	22					Fair	10" x 48" cavity with decay from ground level North side
49	5045	Western Red Cedar	1	25					Poor	Thin crown, leans Northwest
50	5046	Western Red Cedar	1	21					Poor	Thin crown, leans West
51	5047	Western Red Cedar	1	24					Good	Leans Southeast
52	5048	Western Red Cedar	1	15					Good	
53	5049	Western Red Cedar	1	18					Good	
54	5050	Western Red Cedar	1	21					Fair	Thin crown
55	5051	Western Red Cedar	1	22					Fair	High Crown
56	5052	Douglas Fir						1	Hazard	Red ring rot. Galls at 8 feet 30 feet and 45 feet, 16" dia
57	5053	Western Red Cedar	1	36					Good	
58	5054	Western Red Cedar						1	Hazard/Very Poor	Decline. 50% decay on East side ground level to 35 feet, 16" dia..
59	5055	Western Red Cedar	1	49					Fair	2 leaders at about 35 feet
60	5056	Western Red Cedar	1	36					Good	Partially undermined by creek. Appears stable.
61	5057	Western Red Cedar						1	Hazard	Hazard/Habitat leans North, severe decay, 24" dia
62	5058	Western Red Cedar	1	34					Very Good	
63	5059	Douglas Fir	1	27					Good	
64	5060	Western Red Cedar	1	26					Poor	Decline.
65	5061	Douglas Fir	1	27					Good	High Crown
66	5062	Western Red Cedar	1	38					Good	

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
67	5063	Douglas Fir	1	32					Good	High Crown. Leans South
68	5064	Western Red Cedar	1	39					Good	
69	5065	Western Red Cedar	1	28					Fair	Electrical Conduct in ground North Side. 2" x12" cavity with decay 18" to 30" above ground level South side. Decayed root at ground level South side.
70	5066	Western Red Cedar	1	26					Good	
71	5067	Western Red Cedar						1	Very Poor	Almost dead, 17" dia
72	5068	Western Red Cedar	1	26					Fair	Leans Southwest
73	5069	Western Red Cedar	1	23					Fair	7" X 40 feet tapering cat face with decay Southwest side
74	5070	Western Red Cedar	1	24					Good	
75	5071	Bigleaf Maple	1	23					Good	
76	5072	Douglas Fir	1	24					Good	
77	5073	Western Red Cedar					10		Fair	24" root legs
78	5074	Western Red Cedar	1	16					Good	
79	5075	Western Red Cedar	1	20					Good	
80	5076	Western Red Cedar						1	Very Poor	25" x 30 feet bark peel on West side, 15" dia
81	5077	Western Red Cedar	1	26	1	26			Good	High crown
82	5078	Western Red Cedar						1	Very Poor	Hazard, cat face all the way up trunk, 25" dia
83	5079	Western Red Cedar	1	23					Good	High crown
84	5080	Western Red Cedar	1	21					poor	
85	5081	Western Red Cedar	1	42	1	42			Good	
86	5082	Western Red Cedar	1	34					Good	High crown
87	5083	Western Red Cedar	1	23					Poor	16" x 10 ft cavity from ground level South side, 6" x 10" cavity North side above ground level
88	5084	Western Red Cedar	1	21					Good	Leans West
89	5085	Western Red Cedar	1	29					Good	Seam cavity, North side
90	5086	Western Red Cedar	1	13					Good	
91	5087	Oregon Red Alder	1	14					Fair	Leans North. High crown
92	5088	Western Red Cedar	1	28					Good	High crown
93	5089	Western Red Cedar	1	15					Good	
94	5090	Western Red Cedar	1	34					Good	Mature
95	5091	Western Red Cedar	1	20					Good	
96	5092	Western Red Cedar	1	12					Fair	
97	5093	Western Red Cedar	1	24					Good	
98	5094	Western Red Cedar	1	28					Good	
99	5095	Western Red Cedar	1	45					Good	2 stems at 6 feet above ground level

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
100	5096	Western Red Cedar	1	25					Fair	Shedding bark
101	5097	Western Red Cedar	1	36					Very Good	
102	5098	Western Red Cedar	1	24					Good	High crown
103	5099	Oregon Red Alder	1	21					Fair	2 stems, 21" & 13", 13" stem dead, leans Northwest
104	5100	Oregon Red Alder						1	Very Poor	7" x 54" cat face East side starts at ground level. 10" diameter
105	5101	Western Red Cedar					10, 6		GOOD	STEMS, HIGH CROWN, 6" IS IN POOR CONDITION
106	5102	Alder					9			
107	5103	Western Red Cedar					8		GOOD	
108	5104	Western Red Cedar					8	1	VERY POOR	6" DIA
109	5105	Western Red Cedar					7		GOOD	
110	5106	Western Red Cedar					6		POOR	THIN
111	5107	Western Red Cedar					6		POOR	SUPPRESSED
112	5108	Western Red Cedar					6			
113	5109	Cedar					6			
114	5110	Bigleaf Maple					6	1	VERY POOR	BROKEN TOP, HIGH CROWN, 8" DIA
115	5111	Western Red Cedar					6		POOR	SUPPRESSED, LEANS EAST
116	5112	Western Red Cedar					6		FAIR	SUPPRESSED, LEANS NORTH
117	5113	Western Red Cedar					6		POOR	SUPPRESSED, HIGH CROWN
118	5114	Western Red Cedar					10		GOOD	HIGH CROWN
119	5115	Cedar					6			
120	5116	Western Red Cedar					6		FAIR	SUPPRESSED
121	5117	Bigleaf Maple					8		POOR	HIGH CROWN, BROKEN TOP, NEW LEADERS
122	5118	Bigleaf Maple					6		POOR	SUPPRESSED, BROKEN TOP WITH NEW LEADERS, HIGH CROWN
123	5119	Western Red Cedar					7		POOR	HIGH CROWN, SUPPRESSED
124	5120	Western Red Cedar	1	13	1	13			FAIR	HIGH CROWN
125	5121	Cedar					10			
126	5122	Maple					9			
127	5123	Maple					10			
128	5124	BIGLEAF MAPLE					6	1	VERY POOR	SUPPRESSED, 6" DIA
129	5125	Maple					9			
130	5126	Maple					7		POOR	SUPPRESSED
131	5127	BIGLEAF MAPLE					6			
132	5128	Maple					9			
133	5129	Maple					6			
134	5130	Maple								

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
135	5131	Maple					8			
136	5132	Oregon Red Alder					8		POOR	HIGH CROWN, LEANS SOUTH
137	5133	BIGLEAF MAPLE					9		FAIR	SUPPRESSED
138	5134	BIGLEAF MAPLE						1	VERY POOR	CAT FACE NORTH SIDE WITH DECAY STARTS AT 18' ABOVE GROUND LEVEL, 6" X 24" CAT FACE WITH DECAY SOUTH SIDE STARTS AT 18" ABOVE GROUND LEVEL, 7" DIA
139	5135	Maple					9			
140	5136	Maple					7			
141	5137	Maple					6			
142	5138	Cedar					9			
143	5139	Fir					8			
144	5140	Maple					10			
145	5141	BIGLEAF MAPLE					6		POOR	SWEEP, 2 FT NORTH OF #5142
146	5142	WESTERN RED CEDAR						1	VERY POOR	HAZARDOUS, 10 FTNORTHEAST OF #5725, MAIN STEM 50% DECAYED, 15"X8" CAVITY ON SOUTH SIDE, 11" DIA
147	5143	Maple					9			
148	5144	BIGLEAF MAPLE					9		FAIR	LEANS WEST
149	5145	Maple					10			
150	5146	Cedar					6			
151	5147	Cedar					10			
152	5148	Birch					7			
153	5149	Cedar					11			
154	5150	Fir					10			
155	5151	Maple					6			
156	5152	Maple					6			
157	5153	Western Red Cedar					8		POOR	SUPPRESSED
158	5154	Western Red Cedar					8		POOR	SUPPRESSED
159	5155	Western Red Cedar					11		FAIR	ROOT LEG SOUTH SIDE
160	5156	Maple					11			
161	5157	Cedar					8			
162	5158	OREGON RED ALDER		7,11	1	13			POOR	12 FT EAST OF #5953, 2 STEMS, SEVERE LEAN NORTH, OOZE AT 7 FT ABOVE GROUND LEVEL FROM 11" STEM
163	5159	Cedar					8			
164	5160	Maple					6			
165	5161	OREGON RED ALDER					6		POOR	17 FT EAST OF #5953, SUPPRESSED

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
166	5162	OREGON RED ALDER					9		POOR	7 FT SOUTH #5953, LEANS WEST, HIGH CROWN
167	5163	WESTERN RED CEDAR					9		POOR	8 FT SOUTH #5953, SUPPRESSED
168	5164	Western Red Cedar					6		POOR	SUPPRESSED
169	5165	Cedar					8			
170	5166	Maple	1	12						
171	5167	Cedar					6			
172	5168	Cedar					8			
173	5169	Hawthorne						1	VERY POOR	SEVERE LEAN NORTH, 4", 6" AND 7" DIA
174	5170	Cedar					6			
175	5171	Cedar					10			
176	5172	Alder					11			
177	5173	BIGLEAF MAPLE					10			BROKEN TOP WITH NEW LEADER
178	5174	Western Red Cedar					9		FAIR	
179	5175	Western Red Cedar					8		POOR	HIGH CROWN, SEVERE INCLUSION IN CROWN
180	5176	Western Red Cedar					6		POOR	SUPPRESSED
181	5177	Maple					9			
182	5178	Maple					6			
183	5179	Oregon Red Alder						1	VERY POOR	HIGH CROWN, DEAD TOP, 8" DIA
184	5180	Oregon Red Alder					9		POOR	HIGH CROWN, CAVITY FORMING EAST SIDE 2" X 3", 18" TO 48" ABOVE GROUND LEVEL
185	5181	Oregon Red Alder						1	HAZARDOUS	HAZARD, SEVERE LEAN AND SWEEPS, HIGH CROWN, 7" DIA
186	5182	Maple					10			
187	5183	Alder					8			
188	5184	Maple					6			
189	5185	Alder					11			
190	5186	Alder					11			
191	5187	Cedar					10			
192	5188	Maple	1	12	1	12				
193	5189	Cedar					6			
194	5190	Cedar					8			
195	5191	Maple	1	12	1	12				
196	5192	Maple		11,8	1	14				
197	5193	Alder					10			
198	5194	Alder					7			
199	5195	Alder					11			
200	5196	Cedar					6			

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1	POINT #	DESCRIPTION	VIAABLE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
201	5197	Oregon Red Alder					8		POOR	FORMS CORNOR OF TREE FOOT, HIGH CROWN
202	5198	Alder					8			
203	5199	Oregon Red Alder	1	13	1	13			GOOD	LEANS SOUTH
204	5201	Western Red Cedar	1	24					Good	High crown
205	5203	Western Red Cedar	1	27	1	27			Good	High crown 4" x 48" cavity with decay South side
206	5204	Bigleaf Maple	1	17	1	17				
207	5205	Western Red Cedar						1	Very Poor	Hazardous, severe decay, secondary borer infestation, 17" dia
208	5205A	Western Red Cedar						1	Very Poor	1 foot East #5205. Hazardous, sever decay, 29" dia.
209	5206	Oregon White Oak	1	26	1	26			Good	
210	5207	Cherry	1	12	1	12			Good	
211	5208	Western Red Cedar	1	31	1	31			Good	Edge tree
212	5209	Douglas Fir	1	40					Good	High crown
213	5210	Bigleaf Maple	1	14					Poor	Leans South. Dead top
214	5211	Cherry	1	18	1	18			Fair	
215	5212	Western Red Cedar	1	22	1	22			Good	High crown
216	5213	Western Red Cedar	1	25	1	25			Good	High crown
217	5214	Western Red Cedar	1	47					Good	Lost top with new leaders formed
218	5217	Western Red Cedar	1	20					Good	High crown
219	5218	Western Red Cedar	1	32	1	32			Good	High crown
220	5219	Douglas Fir	1	15	1	15			Fair	High crown
221	5220	Western Red Cedar	1	19	1	19			Fair	High crown
222	5221	Western Red Cedar	1	31					Good	Edge tree
223	5222	Douglas Fir	1	33	1	33			Good	High crown
224	5223	Western Red Cedar	1	21					Good	High crown
225	5224	Western Red Cedar	1	17	1	17			Fair	High crown
226	5225	Western Red Cedar								Not on property, 24" dia.
227	5226	Western Red Cedar	1	29	1	29			Good	
228	5227	Western Red Cedar	1	15	1	15			Good	High crown
229	5228	Oregon Red Alder	1	22	1	22			Fair	High crown. Leans West; over mature
230	5229	Oregon Red Alder	1	20	1	20			Poor	Leans North. Over mature.
231	5230	Oregon Red Alder	1	20	1	20			Poor	2" X 15" decay cavity 2 feet above ground level, West side
232	5231	Western Red Cedar		30						Not on property
233	5232	Oregon Red Alder	1	17	1	17			Poor	Dead top. Over mature
234	5233	Western Red Cedar	1	38	1	38			Good	

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1	POINT #	DESCRIPTION	VIAABLE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
										7" x 12" burl on 9" stem at 5 feet above ground level. 4 stems, 6" x 8" burl on 15" stem at 5 feet above ground level, 12,9,12,15" stems.
235	5234	Cherry	1	24	1	24				
236	5235	Western Red Cedar	1	30	1	30			Good	High crown
237	5236	Western Red Cedar	1	29	1	29			Good	High Crown
238	5237	Western Red Cedar	1	30	1	30			Fair	2 leaders at 35 feet. High crown.
239	5238	Western Red Cedar	1	20	1	20			Good	
240	5239	Alder						1	Dead	20' tall dead trunk, 14" dia.
241	5240	Oregon Red Alder	1	19	1	19			Poor	Mature, leans West
242	5241	Western Red Cedar	1	18	1	18			Fair	Rubs #5240
243	5242	Western Red Cedar	1	24	1	24			Good	High crown
244	5243	Oregon Red Alder						1	Very Poor	2 stems. High crown, 10" stem severe decline, 21"/10" dia., two stem tree
245	5244	Oregon Red Alder	1	13	1	13			Fair	High crown
246	5245	Oregon Red Alder	1	23	1	23			Good	High crown. Leans North
247	5246	Western Red Cedar	1	19	1	19			Dead	
248	5247	Western Red Cedar	1	39	1	39			Good	Edge tree
249	5248	Western Red Cedar						1	Very Poor	Hazard. Trunk split through from 3 feet above ground level to 15 feet above ground level, 16" dia.
250	5249	Western Red Cedar								Not on property, 16" diameter, double leader at 35'
251	5250	Western Red Cedar	1	23	1	23			Fair	High crown. Thinning crown
252	5251	Western Red Cedar								Not on property, 24 " diameter
253	5252	Western Red Cedar								Not on property, 20 " diameter
254	5253	Western Red Cedar	1	24	1	24			Fair	High crown
255	5254	Western Red Cedar							Good	Not on property, 27" diameter
256	5255	Western Red Cedar	1	29	1	29			Good	High crown
257	5256	Western Red Cedar	1	30	1	30			Fair	Bulge and distortion in trunk at 9 feet above ground level
258	5257	Western Red Cedar	1	17	1	17			Good	High crown
259	5258	Oregon Red Alder	1	11					Poor	High crown; bark inclusion at 10 feet above ground level at stem break
260	5259	Douglas Fir	1	31	1	31			Good	
261	5260	Western Red Cedar	1	35	1	35			Good	
262	5261	Oregon Red Alder	1	17	1	17			Good	Mature
263	5262	Oregon Red Alder	1	12					Good	High crown
264	5263	Western Red Cedar	1	14					Poor	Broken top with new leaders
265	5264	Oregon Red Alder						1	Very Poor	2 stems; thin crown, 10", 6" dia., two stems

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266	5265	Hawthorne	1	13					Poor	Leans Northwest 80 degrees
267	5266	Oregon Red Alder					11		Good	High crown
268	5267	Douglas Fir	1	29	1	29			Good	
269	5268	Oregon Red Alder	1	16	1	16			Fair	Mature leans South 20 degrees
270	5269	Oregon Red Alder	1	15	1	15			Good	2 stem 11", 10" dia., high crown leans Southwest
271	5270	Oregon Red Alder						1	Very Poor	Broken top, in decline, 18" dia.
272	5271	Oregon Red Alder	1	30	1	30			Poor	2 stems, high crown, bark inclusion, 12", 14" diameter stems
273	5272	Bigleaf Maple	1	17	1	17			Good	
274	5273	Oregon Red Alder					11		Poor	High crown, leans West
275	5274	Western Red Cedar	1	19	1	19			Poor	Broken top with new leaders
276	5275	Western Red Cedar	1	17	1	17			Fair	
277	5276	Western Red Cedar	1	15	1	15			Poor	2 stems, root legs, 10", 11" stems
278	5277	Douglas Fir	1	30					Good	
279	5278	Western Red Cedar	1	31	1	31			Fair	Lost top with new leaders
280	5279	Oregon Red Alder	1	13	1	13			Fair	High crown
281	5280	Western Red Cedar	1	22					Good	Leans North
282	5281	Oregon Red Alder					10		Poor	High crown
283	5282	Oregon Red Alder					10		Poor	High crown, cat face 2" x 9" West side at 18" above ground level
284	5283	Western Red Cedar	1	31	1	31			Fair	Old broken top with new leaders
285	5284	Western Red Cedar	1	28	1	28			Poor	2 stems, broken top with new leaders, 27" & 9" stems
286	5285	Oregon Red Alder	1	18	1	18			Poor	2 stems, severe inclusion between stems, high crown, 11" & 14" dia. Stems
287	5286	Oregon Red Alder	1	26	1	26			Fair	3 stems; 10" stem leans North 20 degrees, 13", 102 stems, severe inclusion between stems, high crown, 11" & 14" dia. 13", 11", 10" stems
288	5287	Douglas Fir	1	32	1	32			Good	
289	5288	Oregon Red Alder	1	18					Good	Mature, leans South 15 degrees
290	5289	Bigleaf Maple	1	29	1	29			Good	
291	5290	Oregon White Oak	1	22					Good	Heavy Ivy load
292	5291	Western Red Cedar	1	45	1	45			Fair	Broken top
293	5292	Western Red Cedar	1	13	1	13			Poor	Suppressed, broken top with new cedars
294	5293	Oregon Red Alder	1	21	1	21			Fair	Mature, leans South
295	5294	Douglas Fir	1	33					Good	High crown
296	5295	Bigleaf Maple	1	15	1	15			Poor	High crown
297	5296	Western Red Cedar	1	12	1	12			Poor	2 stems; suppressed, 9", 8" dia. stems

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298	5297	Bigleaf Maple	1	26					Good	
299	5298	Western Red Cedar	1	26					Fair	Thinning crown
300	5299	Oregon Red Alder	1	16					Good	High crown
301	5300	Western Red Cedar	1	15					Good	
302	5301	Western Red Cedar	1	30					Fair	Sweep and crook in trunk, 1" x 8 ft cavity Southwest side at 20 feet above ground level
303	5302	Western Red Cedar	1	26					Good	High crown
304	5303	Western Red Cedar	1	26					Good	High crown
305	5304	Western Red Cedar	1	29					Good	High crown
306	5305	Douglas Fir	1	21					Good	High crown
307	5306	Western Red Cedar	1	23					Good	
308	5307	Western Red Cedar	1	25					Good	
309	5308	Western Red Cedar	1	17					Good	High crown
310	5308AU	Western Red Cedar	1	28			11		Fair	Broken top with new leader
311	5309	Oregon Red Alder							Poor	High crown; leans North
312	5310	Western Red Cedar	1	18					Good	
313	5311	Douglas Fir	1	27					Good	
314	5312	Western Red Cedar	1	16					Poor	Thin crown; high crown
315	5313	Douglas Fir	1	31					Good	High crown
316	5314	Western Red Cedar						1	Very Poor	Broken top, 22" dia.
317	5315	Western Red Cedar	1	23	1	23			Good	High crown
318	5316	Western Red Cedar						1	Very Poor	Not on property, broken top, 24" tree
319	5317	Western Red Cedar	1	21					Good	High crown
320	5318	Western Red Cedar	1	22					Good	High crown
321	5319	Western Red Cedar	1	19					Good	High crown
322	5320	Douglas Fir		29					Good	Not on Property, high crown
323	5321	Oregon Ash	1	12					Good	
324	5322	Western Red Cedar	1	22					Dead	
325	5323	Western Red Cedar	1	20					Good	High crown
326	5324	Western Red Cedar						1	Dead	35" dia.
327	5325	Western Red Cedar		15					Poor	Not on property, broken top with new leaders
328	5326	Western Red Cedar	1	29					Poor	Broken top
329	5327	Western Red Cedar						1	Dead	17" dia.
330	5328	Oregon Red Alder	1	16					Fair	Mature; 4" x 8" limb cavity at 15 ft. above ground level East side; high crown
331	5329	Western Red Cedar	1	14					Poor	Suppressed
332	5330	Western Red Cedar						1	Very Poor	Thin crown; broken top, 18" dia.
333	5331	Western Red Cedar	1	29					Fair	Thinning crown; high crown
334	5332	Western Red Cedar	1	16					Dead	
335	5333	Western Red Cedar	1	22					Poor	Thin crown; high crown

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336	5334	Western Red Cedar	1	35					Good	
337	5335	Western Red Cedar	1	20					Poor	Broken top with new leaders; thin crown; high crown
338	5336AU	Western Red Cedar	1	23					Dead	
339	5336	Western Red Cedar						1	Very Poor	Broken top, 15" dia.
340	5337	Western Red Cedar	1	25					Poor	Broken top; thin crown
341	5338	Bigleaf Maple	1	12					Poor	High crown; thin crown
342	5339	Western Red Cedar	1	21					Dead	
343	5340	Western Red Cedar	1	20					Dead	
344	5341	Western Red Cedar	1	12					Dead	
345	5342	Western Red Cedar						1	Very Poor	Thin crown, 21 dia.
346	5343	Western Red Cedar	1	12					Dead	
347	5344	Western Red Cedar						1	Very Poor	Thin crown, 20" dia
348	5345	Oregon Ash	1	28					Good	Over mature
349	5346	Western Red Cedar	1	19					Poor	Broken top
350	5348	Western Red Cedar	1	26					Fair	Broken top
351	5349	Western Red Cedar		18						Not on Property
352	5350	Western Red Cedar	1	13					Dead	
353	5351	Western Red Cedar	1	27					Poor	Broken top
354	5352	Western Red Cedar						1	Very Poor	Broken top; 12" cavity Southeast side ground level to 12 feet above ground level, 26" dia
355	5353	Western Red Cedar	1	15					Poor	Thin crown
356	5354	Western Red Cedar						1	Dead	12" dia.
357	5355	Douglas Fir	1	30					Good	
358	5356	Oregon Red Alder	1	21					Fair	High crown; over mature; thinning crown
359	5357	Western Red Cedar	1	35					Fair	Broken top with new leaders
360	5358	Douglas Fir	1	20					Fair	High crown; offset in trunk at 50 feet above ground level
361	5359	Oregon Red Alder	1	13					Dead	Broken at 50 feet above ground level; hazard
362	5360	Western Red Cedar	1	26					Good	
363	5361	Douglas Fir	1	24					Good	High crown
364	5362	Western Red Cedar						1	Very Poor	Broken top, 20" dia.
365	5363	Western Red Cedar	1	16					Good	
366	5364	Douglas Fir	1	38					Good	Leans South
367	5365	Western Red Cedar	1	38					Fair	12" x 24" cavity at ground level North side
368	5366AU	Bigleaf Maple	1	18					Poor	Thin crown; many burls on trunk; leans South
369	5366	Oregon Red Alder						1	Dead	Hazard; Severe lean South, 14" dia.
370	5367	Western Red Cedar						1	Very Poor	Not on property, dead top, 27 " dia.

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371	5368	Western Red Cedar						1	Very Poor	Hazard/Habitat; many woodpecker holes; broken top, 19" dia.
372	5369	Western Red Cedar	1	30					Fair	Old broken top with new leaders
373	5370	Bigleaf Maple	1	26					Poor	2 stems; high crown; over mature; some die back in top, 20", 17" dia. Stems
374	5371	Bigleaf Maple					11		Poor	Broken top with new leaders
375	5372	Western Red Cedar						1	Very Poor	Broken top, 28" dia
376	5373	Western Red Cedar	1	14					Good	
377	5374	Oregon Red Alder						1	Very Poor	Broken top; 30 degree leans South, 15"
378	5375	Douglas Fir	1	17					Good	High crown
379	5376	Western Red Cedar	1	23					Poor	Broken top
380	5377	Western Red Cedar	1	16					Poor	Thin crown; 2" x 7 ft cavity above ground level
381	5377BS	Douglas Fir	1	26					Poor	Sweep in trunk; leans South; offset in trunk at 35 feet above ground level
382	5377AS	Western Red Cedar					10		Poor	Thin crown; 2" x 1 ft cavity on North side
383	5378	Douglas Fir	1	35					Good	High crown
384	5379	Douglas Fir	1	24					Good	High crown
385	5380	Western Red Cedar	1	15					Poor	Sweep in lower trunk; woodpecker holes
386	5381	Western Red Cedar	1	22					Fair	Old broken top with new leaders
387	5382	Western Red Cedar	1	13					Fair	Suppressed
388	5383	Western Red Cedar	1	17					Good	
389	5384	Bigleaf Maple	1	27	1	27			Fair	Mature; old broken top with new leaders
390	5385	Western Red Cedar	1	58	1	58			Fair	Old broken top with new leaders
391	5386	Western Red Cedar	1	16					Good	High crown
392	5387	Oregon Red Alder	1	25	1	22			Poor	18"x40" broken stem cavity on North side oversee sturdy high crown
393	5388	Western Red Cedar	1	29	1	29			Fair	Old broken top with new leaders; 2" x 12" cavity North side at 6 feet above ground level
394	5389	Western Red Cedar	1	35					Good	High crown
395	5390	Western Red Cedar	1	25					Good	
396	5391	Western Red Cedar	1	31					Fair	Old broken top with new leaders
397	5392	Western Red Cedar	1	22	1	22			Good	High crown
398	5393	Bigleaf Maple	1	20					Fair	Mature; sweep in lower trunk; leans West
399	5394	Western Red Cedar	1	27					Poor	Thin crown
400	5395	Bigleaf Maple	1	12	1	12			Good	High crown
401	5396	Cherry	1	24	1	24			Fair	Mature; high crown
402	5397	Douglas Fir	1	23	1	23			Good	
403	5398	Western Red Cedar	1	28					Good	

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404	5399	Western Red Cedar	1	45	1	45			Fair	Broken top; 12" x 36" cavity East side above ground level
405	5400	Oregon Red Alder	1	12					Fair	High crown; leans South
406	5401	Western Red Cedar	1	17					Poor	Broken top with new leaders at 30 feet above ground level
407	5402	Western Red Cedar	1	36					Good	
408	5403	Oregon Red Alder	1	13					Poor	High crown; thinning crown
409	5404	Douglas Fir						1	Very Poor	36" x 36" burl/gall at ground level West side; 8" diameter gall at 10 feet above ground level West side; high crown; many galls in crown; thin crown, 15" dia.
410	5405	Western Red Cedar	1	21					Good	High crown
411	5406	Oregon Red Alder						1	Very Poor	Over mature; severe lean to South, 23" dia.
412	5407	Bigleaf Maple					11		Fair	High crown
413	5408	Douglas Fir	1	28					Good	High crown
414	5409	Oregon Red Alder						1	Dead	Hazard; Bark is sloughing, 20" dia.
415	5410	Western Red Cedar						1	Very Poor	Hazard/Habitat; Broken top with new leaders; 15" x 17 feet cavity North side, 17" dia.
416	5411	Western Red Cedar	1	19					Good	
417	5412	Western Red Cedar						1	Very Poor	Broken top with new leaders; thinning crown; hazard/habitat, 36" dia.
418	5413	Western Red Cedar						1	Very Poor	13" x 40 ft cavity North side from ground level, 16" dia
419	5414	Bigleaf Maple	1	16					Fair	High crown; old wound seam West side
420	5415	Bigleaf Maple	1	15					Poor	High crown; broken top with new leaders
421	5416	Western Red Cedar	1	25					Fair	
422	5417	Douglas Fir	1	28					Poor	Bulges at 20 ft, 25 ft, 30 ft, 35 ft, and 40 ft above ground level North east side; dead limbs; high crown; thinning crown; possible broken top
423	5418	Western Red Cedar	1	15					Poor	Broken top with new leader
424	5419	Western Red Cedar	1	20					Good	
425	5420	Western Red Cedar	1	16					Poor	Broken top with new leaders
426	5421	Oregon Red Alder						1	Dead	11" dia.
427	5421	Western Red Cedar	1	24					Poor	
428	5422	Oregon Red Alder	1	18					Poor	Over mature
429	5423	Oregon Red Alder	1	13	1	13			Fair	Tag is missing; leans South
430	5424	Western Red Cedar	1	33					Good	1 1/2" x 6" blaze South side 40 feet above ground level

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431	5425	Oregon Red Alder	1	15					Fair	High crown
432	5426	Oregon Red Alder	1	12	1	12			Fair	High crown
433	5427	Oregon Red Alder	1	12	1	12			Fair	
434	5428	Oregon Red Alder					11		Poor	High crown
435	5429	Douglas Fir	1	19					Good	
436	5430	Oregon Red Alder	1	15					Poor	Thinning crown; high crown
437	5431	Western Red Cedar	1	16					Poor	Broken top with new leaders
438	5432	Oregon Red Alder	1	13	1	13			Fair	High crown
439	5433	Western Red Cedar	1	18					Poor	Broken top with new leaders
440	5434	Oregon Red Alder	1	17	1	17			Fair	High crown
441	5435	Oregon Red Alder						1	Very Poor	High crown; dead top; Hazard, 11" dia.
442	5436	Western Red Cedar						1	Dead	25" dia.
443	5437	Oregon Red Alder	1	12	1	12			Fair	High crown
444	5438	Oregon Red Alder	1	19	1	19			Poor	2 stems, 15" & 12" dia., forms two corners of tree fort; 10" x 40" cat face at 10 feet above ground North side of 15" stem; 3" x 36" cat face East side 12" stem; 10" x 50" cat face on South side 12" stem at 12 feet above ground level
445	5439	Oregon Red Alder	1	15	1	15			Good	
446	5440	Oregon Red Alder	1	17					Fair	Leans North
447	5441	Western Red Cedar	1	14					Fair	Sweep in trunk
448	5442	Western Red Cedar	1	32					Good	
449	5443	Western Red Cedar	1	39					Poor	Broken top; habitat
450	5444	Oregon Red Alder	1	16					Fair	Leans Southeast
451	5445	Oregon Red Alder	1	15					Good	
452	5446	Oregon Ash						1	Dead	11" dia.
453	5447	Western Red Cedar	1	29					Good	
454	5448	Western Red Cedar	1	29					Good	
455	5449	Western Red Cedar	1	28					Fair	Broken top with new leaders
456	5450	Western Red Cedar	1	25					Fair	Thinning crown
457	5451	Western Red Cedar						1	Dead	Broken at 20 feet above ground level, 20"
458	5452	Western Red Cedar	1	27					Good	
459	5453	Cherry	1	13					Poor	Epicormics; high crown; unusual swelling at 3 feet above ground level North side
460	5454	Western Red Cedar	1	36					Fair	24" x 5 ft cavity at ground level West side
461	5455	Oregon Ash						1	Very Poor	Hazard; 19" diameter open cavity ground level to 15 feet and dead scaffolds, 30" dia
462	5456	Western Red Cedar	1	15					Good	High crown
463	5457	Western Red Cedar	1	16					Good	High crown

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIAABLE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
464	5458	Western Red Cedar	1	28					Poor	9" x 7 ft cavity at ground West side; broken top with new leaders
465	5459	Oregon Red Alder	1	15					Fair	High crown
466	5460	Oregon Red Alder	1	16					Fair	Leans West
467	5461	Oregon Red Alder					11		Fair	Leans West
468	5462	Western Red Cedar	1	22					Very Poor	Broken top; thinning crown
469	5463	Western Red Cedar	1	16					Good	field tagged 5473
470	5464	Western Red Cedar						1	Very Poor	Broken top, 26" dia.
471	5465	Oregon Red Alder						1	Poor	Severe lean with correction South 45 degrees; limbs with top; Hazard, 13"
472	5466	Western Red Cedar	1	15					Good	
473	5467	Oregon Red Alder	1	12					Good	High crown
474	5468	Western Red Cedar								NOT USED
475	5469	Oregon Red Alder	1	12					Poor	Leans North; broken top; suspect decay column
476	5470	Western Red Cedar	1	13					Good	
477	5471	Douglas Fir	1	19					Good	High crown
478	5472	Douglas Fir	1	18					Fair	High crown, sweep in lower trunk, 13 ft East of #5487, same as #6000
479	5474	Western Red Cedar	1	25					Poor	Broken top; cavity formed South side 10 feet above ground level to top;
480	5475	Western Red Cedar	1	36					Poor	Deep inclusion between 2 leaders; one leader is dead, decay and die back is growing out very old spring board stump
481	5476	Western Red Cedar	1	18					Poor	Broken top with new leaders
482	5477	Western Red Cedar	1	18					Good	
483	5478	Western Red Cedar	1	32					Good	
484	5479	Western Red Cedar	1	13					Good	
485	5480	Oregon Ash	1	14					Poor	Over mature; thin crown; high crown
486	5481	Western Red Cedar	1	14					Poor	1/2" x 24" cavity East side at 9 feet above ground level; thin crown; high crown
487	5482	Western Red Cedar						1	Very Poor	Die back in crown; thin crown, 11"
488	5483	Western Red Cedar	1	36					Poor	Broken top; hollow; 10" x 20 ft cavity East side
489	5484	Western Red Cedar	1	38					Good	
490	5485	Western Red Cedar	1	15					Poor	6" x 40" cat face East side at ground level; broken top with new leaders
491	5486	Western Red Cedar	1	33					Fair	8" x 18" cavity ground level Northwest side
492	5487	Western Red Cedar	1	24					Fair	
493	5488	Western Red Cedar	1	14					Fair	Top is growing into #5479

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494	5489	Oregon Red Alder						1	Dead	16" dia.
495	5490	Oregon Red Alder						1	Dead	11' dia.
496	5491	Western Red Cedar	1	23					Good	
497	5492	Western Red Cedar	1	15					Good	Measured at 5 feet above ground level
498	5493	Western Red Cedar	1	18					Good	
499	5494	Western Red Cedar	1	17					Good	2 stems, 15" 7 8" dia.
										High crown; burl at 20 feet above ground level on North side
500	5495	Douglas Fir	1	22					Fair	
501	5496	Oregon Red Alder	1	16					Good	
502	5497	Douglas Fir	1	12					Poor	Suppressed
503	5498	Western Red Cedar	1	24					Poor	Thinning crown
504	5499	Western Red Cedar						1	Very Poor	90% die back in crown, 27" dia
505	5500	Western Red Cedar	1	15					Good	Bears tag #5468
506	5501	Douglas Fir	1	20					Good	High crown
507	5502	Douglas Fir	1	22					Fair	High crown
508	5503	Willow					11"		Poor	Broken top
										Broken top; decay in roots at ground level on West side, 15" dia
509	5504	Western Red Cedar						1	Very Poor	Not on property, slight leans off property
510	5505	Oregon Red Alder		13					Good	
511	5506	Western Red Cedar	1	23					Good	
512	5507	Western Red Cedar	1	12					Fair	One sided
513	5508	Western Red Cedar	1	27	1	27			Fair	
514	5509	Pine		17						Not on property, leans south
										Broken top with new leader; entire South side decayed, 13" dia.
515	5510	Western Red Cedar						1	Very Poor	
516	5511	Western Red Cedar	1	15	1	15			Fair	Thin crown, 8" x 48" cavity Southeast side
517	5512	Western Red Cedar	1	18					Fair	
518	5513	Bigleaf Maple	1	12					Fair	
519	5514	Western Red Cedar						1	Dead	29" dia
520	5515	Western Red Cedar	1	24					Good	
521	5516	Western Red Cedar	1	20					Good	
522	5517	Western Red Cedar	1	27					Good	
523	5518	Douglas Fir	1	24					Good	High crown
524	5519	Western Red Cedar	1	21					Poor	Broken top with new leaders
										Old broken top with new leaders; ferns growing inside of trunk; leans South
525	5520	Bigleaf Maple	1	16					Fair	
526	5521	WESTERN RED CEDAR		24						
527	5522	Oregon Red Alder					11		Poor	High crown; leans South
528	5523	Oregon Red Alder	1	12				1	Dead	Uprooted laying on ground

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
529	5524	Oregon Ash	1	21					Fair	High crown; mature; dead side stem at 40 feet above ground level
530	5525	Western Red Cedar	1	29	1	29			Very Good	East of shed
531	5526	Bigleaf Maple	1	22					Fair	Epicormics and burls, broken top with new leaders
532	5527	Western Red Cedar	1	19					Fair	Thinning crown
533	5528	Western Red Cedar	1	21					Fair	Broken top with new leaders
534	5529	Bigleaf Maple	1	19					Fair	13" & 14" dia. stems, Leans South
535	5530A	Western Red Cedar						1	Very Poor	Dead top, 13" dia.
536	5530	Western Red Cedar						1	Very Poor	Dead top, 17" dia.
537	5531	Western Red Cedar	1	17					Fair	Thinning crown
538	5532	Oregon Red Alder	1	20					Fair	Mature; thinning crown; leans South
539	5533	Western Red Cedar						1	Dead	31" dia
540	5534	Bigleaf Maple					11		Fair	High crown
541	5535	Western Red Cedar	1	23					Fair	12" x 60" cavity West side at 12 feet above ground level
542	5536	Oregon Ash	1	28					Fair	Over mature; epicormics; thinning crown
543	5537	Oregon Red Alder	1	15					Poor	Leans South; mature; rubs against #???
544	5538	Western Red Cedar	1	24						Lost top, thin crown
545	5539	Bigleaf Maple	1	15					Fair	Leans South
546	5540	Douglas Fir	1	22					Poor	Broken top with new leader; burls on South side at 10 feet and 14 feet above ground level
547	5541	Western Red Cedar	1	16					Poor	Broken top with new leader
548	5542	Western Red Cedar	1	17					Good	
549	5543	Bigleaf Maple	1	13					Good	Leans South
550	5544	Western Red Cedar						1	Dead	31" dia
551	5545	Western Red Cedar	1	22	1	22			Good	
552	5546	Western Red Cedar	1	23	1	23			Good	
553	5547	Western Red Cedar	1	16	1	16			Good	
554	5548	Western Red Cedar	1	27	1	27			Good	
555	5549	Western Red Cedar	1	28	1	28			Good	
556	5549A	Western Red Cedar					11		Good	7' North of # 5549
557	5600	Western Red Cedar	1	36	1	36			Fair	Tapering burl cavity West side ground to 8 feet; 6" wide at ground level
558	5601	Western Red Cedar						1	Dead	16" dia
559	5602	Douglas Fir	1	19					Fair	High crown; possible ???
560	5603	Western Red Cedar	1	22					Fair	Thin crown.
561	5604	Western Red Cedar						1	Very Poor	Thin crown; one tree, 12" dia.
562	5605	Western Red Cedar						1	Very Poor	Almost dead, 13' dia
563	5606	Western Red Cedar	1	12	1	12			Poor	Suppressed

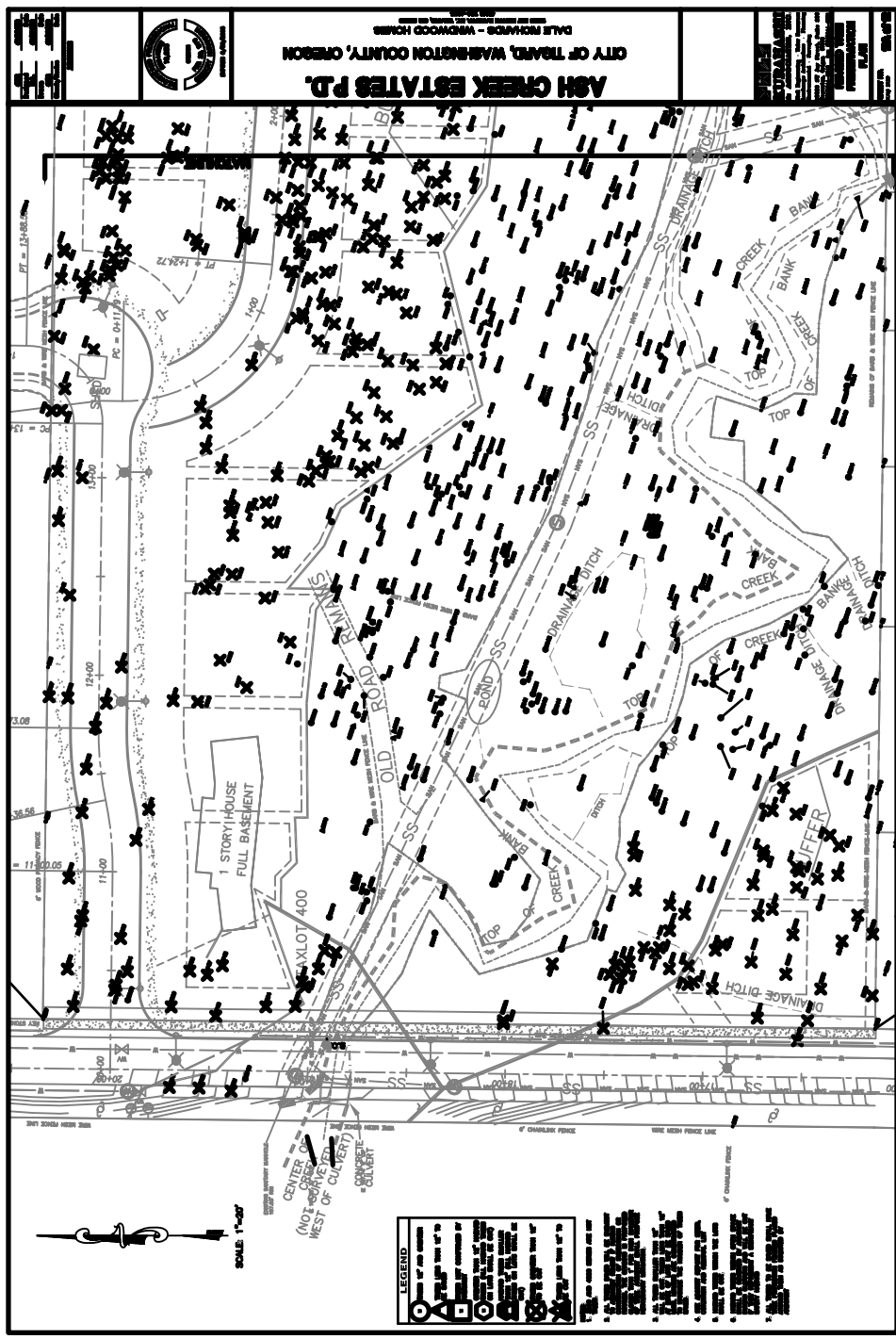
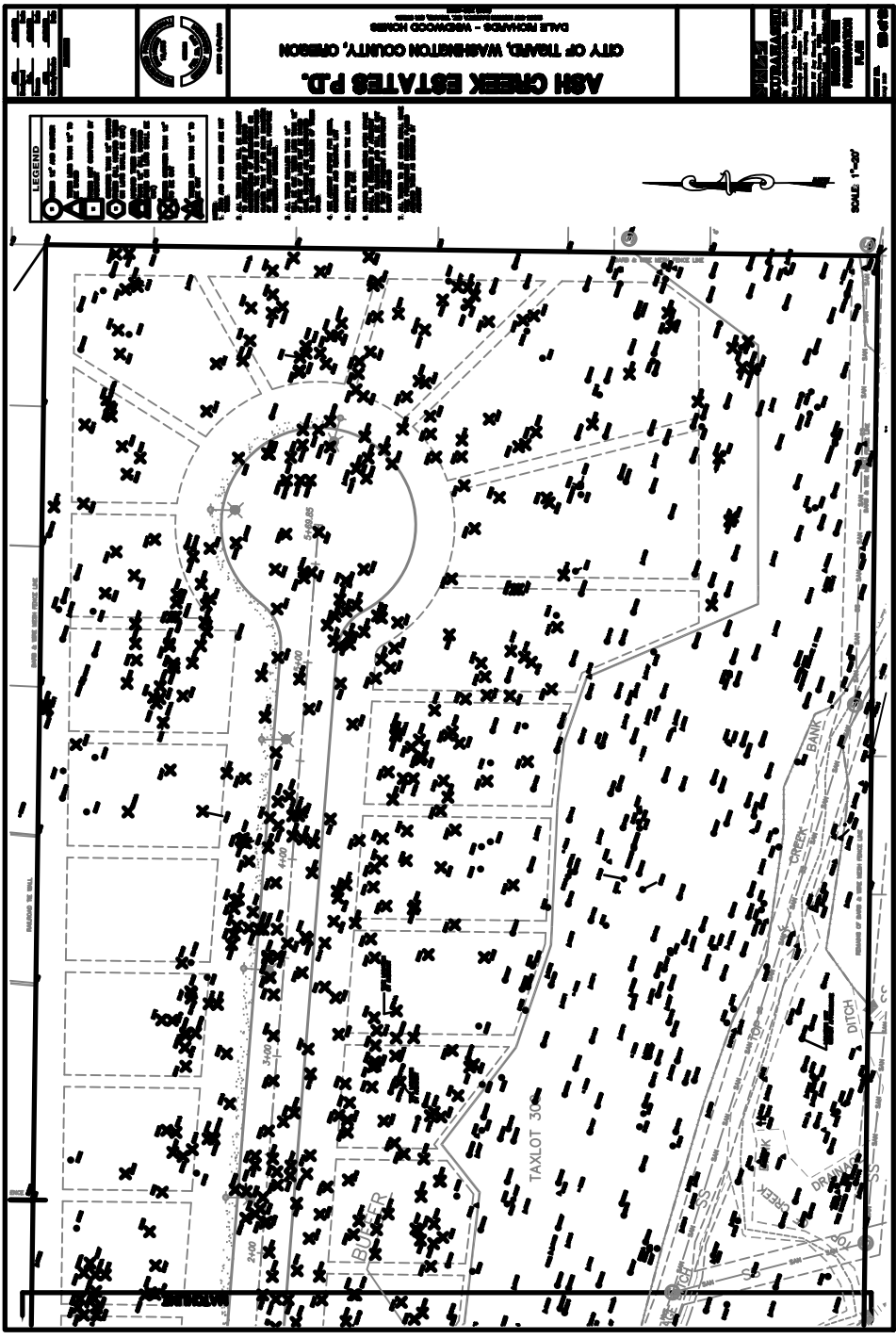
	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIAABLE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
564	5607	Douglas Fir	1	28					Good	
565	5608	Douglas Fir	1	21					Good	Leans to the South slightly
566	5609	Douglas Fir	1	17					Good	High crown; leans Southeast
567	5610	Western Red Cedar	1	12					Poor	Suppressed
568	5611	Western Red Cedar	1	22					Fair	Secondary top at 25 feet
569	5612	Douglas Fir	1	25					Good	
570	5613	Western Red Cedar								NOT USED
571	5614	Western Red Cedar	1	17					Good	High crown
572	5615	Western Red Cedar	1	31					Good	
573	5616	Western Red Cedar	1	35					Good	
574	5617	Western Red Cedar	1	15					Good	Tag missing
575	5618	Western Red Cedar	1	19					Good	High crown
576	5619	Western Red Cedar	1	19					Good	High crown
577	5620	Western Red Cedar	1	27					Good	High crown
578	5621	Western Red Cedar	1	40					Good	
579	5622	Western Red Cedar	1	28					Good	High crown
580	5623	Western Red Cedar	1	25					Good	High crown
581	5624	Western Red Cedar	1	25					Poor	Thin crown, high crown, leans East
582	5625	Western Red Cedar	1	28					Good	
583	5626	Western Red Cedar	1	29					Good	High crown, leans Southeast
584	5627	Western Red Cedar	1	12					Fair	Tag missing
585	5628	Western Red Cedar					11		Good	
586	5629	Western Red Cedar	1	40					Poor	Broken with new leaders; leans Southwest
587	5630CS	Western Red Cedar	1	16					Fair	High crown
588	5630BS	Western Red Cedar	1	18					Fair	High crown; thinning crown
589	5630AS	Western Red Cedar	1	26					Fair	High crown; thinning crown
590	5630	Western Red Cedar	1	27					Fair	High crown; thin crown
591	5631	Western Red Cedar	1	25					Good	High crown
592	5632	Western Red Cedar	1	28					Good	High crown; leans Northeast
593	5633	Western Red Cedar	1	28					Good	High crown
594	5634	Western Red Cedar						1	Dead	Hazard, 17" dia
595	5635	Western Red Cedar	1	12					Fair	High crown
596	5636	Western Red Cedar	1	24					Good	
597	5637	Oregon Red Alder	1	21					Poor	Epicormics and burls on trunk, mature
598	5638	Oregon Red Alder	1	23					Fair	Leans West 30 degrees from vertical, high crown, mature
599	5639	Western Red Cedar	1	15					Good	High crown
600	5640	Western Red Cedar	1	21					Good	
601	5641	Oregon Red Alder	1	21					Poor	Epicormics and burls, high crown, mature
602	5642	Western Red Cedar	1	29					Good	Edge tree, leans South

	A	B	D	E	F	G	H	I	J	K
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603	5643	Western Red Cedar	1	17	1	17			Fair	2 stems, 12" & 12" stems, lost top with new leaders, equivalent to a 17 inch diameter tree
604	5643	Western Red Cedar	1	14					Fair	2 stems
605	5644	Western Red Cedar	1	33	1	33			Fair	Open cavity with decay South side ground level to 16 feet above ground level
606	5645	Douglas Fir	1	27					Good	
607	5646	Western Red Cedar	1	28					Good	
608	5647	Douglas Fir	1	27	1	27			Good	
609	5648	Western Red Cedar	1	19					Good	High crown
610	5649	Western Red Cedar	1	26					Fair	Broken top with new leaders
611	5650	Western Red Cedar	1	16	1	16			Good	11" & 11" dia. stems
612	5651	Oregon Red Alder	1	20					Poor	Leans North epicormics, mature
613	5652	Western Red Cedar	1	23					Good	
614	5653	Western Red Cedar	1	25					Good	High crown
615	5654	Western Red Cedar	1	33	1	33			Good	
616	5655	no tree surveyed								NOT USED
617	5656	Western Red Cedar	1	32					Good	
618	5657	Western Red Cedar	1	18	1	18			Fair	2 stems, 16" & 8" dia.
619	5658AS	Western Red Cedar	1	22					Good	High crown
620	5658	Western Red Cedar	1	26					Good	High crown
621	5659	Western Red Cedar	1	27					Good	Edge tree
622	5660	Western Red Cedar	1	28					Fair	3" wide wound seam and cavity with decay ground level to 18 feet above ground level
623	5661	Western Red Cedar	1	20					Good	2" x 5" cat face South side above ground level
624	5662	Western Red Cedar	1	28					Good	High crown
625	5663	Western Red Cedar	1	18					Fair	High crown
626	5664	Western Red Cedar	1	21					Good	High crown
627	5665	Oregon Red Alder	1	15					Poor	Epicormics, leans North, mature
628	5666	Western Red Cedar	1	22					Good	
629	5667	Western Red Cedar	1	17					Fair	18" North of 14" Cedar
630	5667AS	Western Red Cedar	1	14					Fair	18" South of 17" Cedar
631	5668	Douglas Fir	1	29	1	29			Good	
632	5669	Western Red Cedar	1	16					Good	
633	5670	Western Red Cedar	1	17					Good	
634	5671	Douglas Fir	1	24	1	24			Good	
635	5672	Western Red Cedar	1	31	1	31			Poor	18" x 30 ft cat face South side with three new leaders at 30 feet, 3 leaders
636	5673	Western Red Cedar	1	21					Good	
637	5674	Western Red Cedar	1	25	1	25			Poor	20" x 35 ft cat face with decay West side

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIAABLE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
638	5675	Western Red Cedar	1	19	1	19			Poor	Cavity and bulge at 18 ft above ground level East side
639	5675B	Western Red Cedar					9		Fair	
640	5676	Western Red Cedar	1	21					Good	
641	5656A	Western Red Cedar					6		Fair	2 ft East of #5656
642	5650B	Western Red Cedar					9			4 ft East of #5650
643	5678	Western Red Cedar	1	25	1	25			Poor	6" old cat face at 12 feet above ground level suspect decay
644	5679	Western Red Cedar	1	33	1	33			Good	
645	5680	Douglas Fir	1	33					Good	
646	5681	Douglas Fir	1	26					Fair	Flat burls, healed wounds on lower 5 feet of trunk on the East, South and West sides
647	5682	Cherry	1	12	1	12			Good	
648	5683	Douglas Fir	1	33	1	33			Good	
649	5684	Western Red Cedar	1	17					Good	
650	5685	Western Red Cedar	1	12	1	12			Fair	4 stems, 10",4",2"8" dia
651	5686	Western Red Cedar	1	20					Good	
652	5687	Western Red Cedar	1	26					Good	
653	5688	Douglas Fir	1	23					Good	
654	5689	Douglas Fir	1	19					Good	
655	5690	Douglas Fir	1	22					Good	
656	5691	Western Red Cedar	1	13					Good	Field tagged #5697
657	5692	Western Red Cedar	1	27					Good	
658	5693	Western Red Cedar	1	20					Good	
659	5694	Douglas Fir	1	19					Good	
660	5695	Douglas Fir	1	21					Good	
661	5696	Douglas Fir	1	16					Good	
662	5697	Western Red Cedar							Good	Not used
663	5698	Douglas Fir	1	21					Good	
664	5699	Douglas Fir	1	23					Fair	
665	5700	Douglas Fir	1	20					Good	
666	5701	Western Red Cedar					11		Poor	Suppressed, 3" x 48"decayed cat face starts at ground level South side
667	5702	Western Red Cedar	1	12					Fair	5" x 60" cat face South side starts at ground level
668	5703	Douglas Fir	1	22					Good	
669	5704	Douglas Fir	1	24					Good	
670	5705	Western Red Cedar	1	12					Good	
671	5706	Western Red Cedar	1	14					Good	
672	5707	Douglas Fir	1	27					Good	

Attachment 2, Exhibit B, for Agenda Item No. 8 is a *Revised Tree Preservation Plan – Kurahashi and Associates, dated January 10, 2005*. Electronic copies of this plan follow this page.

Large paper copies the plan were submitted to Council. The public may view a large paper copy of the Revised Tree Preservation Plan in the Council packet materials located at the Tigard Public Library.



LAWYERS

RECEIVED PLANNING



JAN 20 2005

Davis Wright Tremaine LLP

CITY OF TIGARD

ANCHORAGE BELLEVUE HONOLULU LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

CHRISTOPHER P. KOBACK
Direct (503) 778-5382
chriskoback@dwt.com

SUITE 2300
1300 SW FIFTH AVENUE
PORTLAND, OR 97201-5682

TEL (503) 241-2300
FAX (503) 778-5299
www.dwt.com

January 19, 2005

Morgan Tracey
City of Tigard
13125 S.W. Hall Blvd.
Tigard, OR 97223

Re: **2129 Ash Creek Estates PUD**
LUBA Remand

Dear Mr. Tracey:

The purpose of this letter is to provide limited additional evidence relevant to the issues for the February 8, 2005 remand hearing on the above development application. In its decision dated August 20, 2004, LUBA sustained Petitioner's assignment of error that Windwood's landscape plan fails to show protection of existing vegetation as much as possible during construction. *See* TCDC 18.745.030(E).

Subsequent to LUBA's decision, Windwood commissioned an arborist to assist in the preparation of a new detailed tree plan. The preparation of that plan involved a formal tree survey that identified all trees over 12 inches in diameter that will be removed and retained. The arborist also prepared a formal tree protection plan for the trees being retained. I have enclosed a copy of the arborist's suggested protection plan. Windwood suggests that the City include in any approval of its application a condition requiring Windwood to follow the enclosed tree protection plan.

Very truly yours,

Davis Wright Tremaine LLP

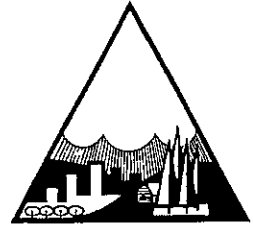
Christopher P. Koback

CPK/lkt

Enclosure

cc: Dale Richards, Windwood Construction

MEMORANDUM



TO: Morgan Tracy

FROM: Matt Stine, City Forester

RE: Ash Creek Estates

DATE: January 24, 2005

As you requested I have provided some comments on the "Ash Creek Estates" project. If you have any questions or concerns regarding my comments please contact me anytime.

1. LANDSCAPING AND SCREENING

18.745.030.C, Installation Requirements The installation of all landscaping shall be as follows:

1. All landscaping shall be installed according to accepted planting procedures.
 2. The plant material shall be of high grade, and shall meet the size and grading standards of the American Standards for Nurberg Stock (ANSI Z-60, 1-1986, and any other future revisions); and
 3. Landscaping shall be installed in accordance with the provisions of this title.
- The accepted planting procedures are the guidelines described in the Tigard Tree Manual. These guidelines follow those set forth by the International Society of Arboriculture (ISA) tree planting guidelines as well as the standards set forth in the American Institute of Architects' Architectural Graphic Standards, 10th edition. In the Architectural Graphic Standards there are guidelines for selecting and planting trees based on the soil volume and size at maturity. Additionally, there are directions for soil amendments and modifications.
 - In order to develop tree species diversity onsite it is recommended that the following guidelines be followed:
 - No more than 30% of any one family be planted onsite.
 - No more than 20% of any one genus be planted onsite.
 - No more than 10% of any one species be planted onsite.

18.745.030.E, Protection of Existing Landscaping. Existing vegetation on a site shall be protected as much as possible:

1. The developer shall provide methods for the protection of existing vegetation to remain during the construction process; and
2. The plants to be saved shall be noted on the landscape plans (e.g., areas not to be disturbed can be fenced, as in snow fencing which can be placed around the individual trees).

See comments under "Tree Removal".

18.745.030.G, Conditions of Approval of Existing Vegetation. The review procedures and standards for required landscaping and screening shall be specified in the conditions of approval during development review and in no instance shall be less than that required for conventional development.

See recommended conditions of approval at the end of this memorandum.

18.745.040, Street Trees

A. Protection of existing vegetation. All development projects fronting on a public street, private street or a private driveway more than 100 feet in length approved after the adoption of this title shall be required to plant street trees in accordance with the standards in Section 18.745.040.C.

- The accepted planting procedures are the guidelines described in the Tigard Tree Manual. These guidelines follow those set forth by the International Society of Arboriculture (ISA) tree planting guidelines as well as the standards set forth in the American Institute of Architects' Architectural Graphic Standards, 10th edition. In the Architectural Graphic Standards there are guidelines for selecting and planting trees based on the soil volume and size at maturity. Additionally, there are directions for soil amendments and modifications.
- In order to develop tree species diversity onsite it is recommended that the following guidelines be followed:
 - No more than 30% of any one family be planted onsite.
 - No more than 20% of any one genus be planted onsite.
 - No more than 10% of any one species be planted onsite.

2. TREE REMOVAL

18.790.030, Tree Plan Requirement

- A. Tree plan required.** A tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided for any lot, parcel or combination of lots or parcels for which a development application for a subdivision, partition, site development review, planned development or conditional use is filed. Protection is preferred over removal wherever possible.
- B. Plan requirements.** The tree plan shall include the following:
- 1. Identification of the location, size and species of all existing trees including trees designated as significant by the city;**
 - 2. Identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper. Mitigation must follow the replacement guidelines of Section 18.790.060D, in accordance with the following standards and shall be exclusive of trees required by other development code provisions for landscaping, streets and parking lots:**
 - a. Retention of less than 25% of existing trees over 12 inches in caliper requires a mitigation program in accordance with Section 18.790.060D of no net loss of trees;**
 - b. Retention of from 25% to 50% of existing trees over 12 inches in caliper requires that two-thirds of the trees to be removed be mitigated in accordance with Section 18.790.060D;**
 - c. Retention of from 50% to 75% of existing trees over 12 inches in caliper requires that 50 percent of the trees to be removed be mitigated in accordance with Section 18.790.060D;**
 - d. Retention of 75% or greater of existing trees over 12 inches in caliper requires no mitigation.**
 - 3. Identification of all trees which are proposed to be removed;**
 - 4. A protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.**
 - As required, the applicant submitted a tree plan that was conducted by Terry Flanagan, of Terragan & Associates, Inc.. The plan contains all four of the required components of a tree plan, and, is therefore, acceptable.

- I suggest planting native species of trees as street trees such as bigleaf maple, cascara or Oregon white oak. Properly sized oaks can be found at River Oak Farm & Nursery. Call Diane at 503-357-2745

Below are my suggestions for the applicant to follow for tree protection guidelines:

- Prior to construction, a Tree Protection Plan shall be included with the proposed construction drawings conforming to the International Society of Arboriculture (ISA) guidelines for review and approval by the City Forester. All tree protection devices, along with their details and specifications, shall be shown on the Tree Protection Plan. This plan shall also include the building footprints shown in relation to the trees being preserved. Any tree that will not be removed onsite that is within the limits of disturbance of this project must be protected. Any tree that is located on property adjacent to the construction project that will have more than 15% of its root system disturbed by construction activities shall also be protected.
- Prior to construction, the applicant shall submit a detailed construction schedule to the City Forester with notations as to when tree protection devices will be either installed or removed throughout construction of the project.
- A note shall be placed on the final set of plans indicating that equipment, vehicles, machinery, grading, dumping, storage, burial of debris, or any other construction-related activities shall not be located inside of any tree protection zone or outside of the limits of disturbance where other trees are being protected.
- All tree protection devices shall be:
 - Visible.
 - Constructed of 11 Gauge steel chain-link fencing supported on at least 2" O.D. steel posts. Each post shall be no less than four feet high from the top of grade. Each post shall be driven into the ground to a depth of no less than two and a half feet below grade. Each post shall be spaced no further apart than four feet.
 - Between each post, securely attached to the chain-link fencing, shall be a sign indicating that the area behind the fencing is protected and no construction activity, including material storage, may occur behind the fencing.
 - Inspected and approved in the field by the project arborist and City Forester prior to clearing, grading, or the beginning of construction.
 - Remain in place and maintained until all construction is completed and a final inspection is conducted.

To determine the size of the tree protection zone (TPZ) the project arborist should follow the guidelines listed below:

- For individual trees follow the trunk diameter method. For every one-inch of diameter at breast height (DBH), or 4 ½ feet above the ground, allow 12 inches of space from the trunk of the tree. For example, a tree that is 15" at DBH must have at least 15' of tree protection zone around the entire canopy of the tree.
 - For groups of trees the tree protection zone must be outside of the drip line of the trees on the edge of the stand. If there are conifers with narrow crowns on the edge of the stand follow the trunk diameter method or the drip line method, whichever is greater.
 - Calculate and follow the Optimal Tree Protection Zone calculation as shown in *"Trees and Development: A Technical Guide to Preservation of Trees During Land Development"* by Nelda Matheny and James R. Clark.
 - The project arborist may propose an alternate method for the establishment of the TPZ, provided the effort is coordinated with the City Forester.
- If it is necessary to enter the tree protection zone at any time with equipment (trucks, bulldozers, etc.) the project arborist and City Forester must be notified before any entry occurs. Before entering the TPZ, the project arborist and City Forester shall determine the method by which entry can occur, along with any additional tree protection measures.
 - Prior to issuance of building permits, the Project Arborist shall submit a final certification indicating the elements of the Tree Protection Plan were followed and that all remaining trees on the site are healthy, stable and viable in their modified growing environment.

RECOMMENDED CONDITIONS OF APPROVAL:

1. Prior to commencing any site work, the applicant shall submit construction drawings that include the approved Tree Removal, Protection and Landscape Plan. The "Tree Protection Steps" identified in Teragan & Associates Letter of November 19, 2004 shall be reiterated in the construction documents. The plans shall also include a construction sequence including installation and removal of tree protection devices, clearing, grading, and paving. Only those trees identified on the approved Tree Removal plan are authorized for removal by this decision.
2. Prior to commencing any site work, the applicant shall establish fencing as directed by the project arborist to protect the trees to be retained. The applicant shall allow access by the City Forester for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are

performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.

3. Prior to final plat approval, the applicant shall ensure that the Project Arborist has submitted written reports to the City Forester, once every two weeks, from initial tree protection zone (TPZ) fencing installation, through site work, as he monitors the construction activities and progress. These reports should include any changes that occurred to the TPZ as well as the condition and location of the tree protection fencing. If the amount of TPZ was reduced then the Project Arborist shall justify why the fencing was moved, and shall certify that the construction activities to the trees did not adversely impact the overall, and long-term health and stability of the tree(s). If the reports are not submitted or received by the City Forester at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan is not being followed by the contractor, the City shall stop work on the project until an inspection can be done by the City Forester and the Project Arborist. This inspection will be to evaluate the tree protection fencing, determine if the fencing was moved at any point during construction, and determine if any part of the Tree Protection Plan has been violated.
4. Prior to issuance of building permits, the applicant shall submit site plan drawings indicating the location of the trees that were preserved on the lot, location of tree protection fencing, and a signature of approval from the project arborist regarding the placement and construction techniques to be employed in building the house. All proposed protection fencing shall be installed and inspected prior to commencing construction, and shall remain in place through the duration of home building. After approval from the City Forester, the tree protection measures may be removed.

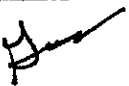
If you have any questions please call me anytime. Thank you for requesting my comments on this project.



MEMORANDUM CITY OF TIGARD

13125 SW Hall Blvd.
Tigard, OR 97223
Phone 503-639-4171
Fax: 503-624-0752

TO: Morgan Tracy
Associate Planner

FROM: Gus Duenas 
City Engineer

DATE: January 25, 2005

SUBJECT: Ash Creek Estates

The applicant on this development project has submitted design drawings for 74th Avenue that include a sag vertical curve that does not meet the design standards. They have asked for an exception to the standards in order to minimize the amount of fill placed over the City of Tualatin water transmission line. The 'k' value that results from this design will not meet the standards for a 25 mph posting. The City Engineer may authorize modification of the street improvement design standards if justified and if the street can be made safe for motorists to use with those modifications in place. To ensure that the appropriate speed is followed for the street at that location, the posting of an advisory 15 mph sign is required. The construction of a street that does not meet the design standards at that sag is acceptable provided a 15 mph advisory sign is posted as part of the project.

The applicant has also proposed posting stop signs on all legs of this 'T' intersection and the construction of a speed table crossing 74th Avenue. These alternatives are not desirable. The installation of the advisory speed would provide for safe passage at that location and does reduce the depth of fill over the existing water line.

The sag location should be monitored after construction to determine if any other measures need to be taken. The applicant must commit to installation of additional measures within a year after construction of the street if observations indicate that additional traffic control measures are needed.

c: Kim McMillan
Dick Bewersdorff